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UNITED STATES OF AMERICA
BEFORE THE
DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD

DEEPWATER PORTS) **Docket No. USCG-1998-3884— 19**

SUPPLEMENTAL COMMENTS OF EL PASO GLOBAL LNG COMPANY

On July 29, 2002, El Paso Global LNG Company ("El Paso Global LNG") filed its comments in this rulemaking proceeding, which was initiated by the United States Coast Guard ("Coast Guard" or "USCG") to revise its regulations implementing the Deepwater Port Act ("DWPA") for the purpose, among others, of updating those regulations and to encourage the construction of additional deepwater ports.

The comments filed by El Paso Global LNG urged the Coast Guard to revise its regulations to address the possibility that certain then-pending proposed legislative amendments would extend the DWPA, which theretofore applied solely to deepwater ports for oil, to natural gas deepwater ports. El Paso's changes to the proposed regulations were intended to allow the regulations to be made applicable to natural gas deepwater ports in the event of passage of the amendments while, at the same time, not requiring further changes to the regulations if the proposed changes were adopted by the Coast Guard but the proposed legislation was not enacted. To achieve that balance, the changes proposed by El Paso Global LNG were minimal and did not address a number of provisions of the regulations that would, in the view of El Paso Global LNG, require revision in the event the legislation was enacted into law.

On November 25, 2002, the Maritime Transportation Security Act of 2002[1] was enacted. That legislation included amendments that extended the DWPA to natural gas deepwater ports (the "2002 Amendments").[2] While the statutory amendments provide the legal basis for filing and processing applications for deepwater natural gas ports, the currently-effective regulations do not yet reflect the expanded jurisdiction of the DWPA. Rather, those regulations will need to be revised and updated to be made fully applicable to natural gas deepwater ports. One of the procedural vehicles available to modify the regulations is set forth in the 2002 Amendments where the Secretary of Transportation is authorized to issue interim final rules to implement the amendments. *See* section 106(e)(2) of the 2002 Amendments.

While the 2002 Amendments state that the interim final rules are not subject to the requirements of the Administrative Procedures Act, including notice and comment procedures governing rulemakings, any interim rules nevertheless will have a significant impact on natural gas deepwater port applications filed prior to the adoption of final rules, including an application filed by El Paso Energy Bridge Gulf of Mexico, L.L.C., an indirect subsidiary of El Paso Global LNG.[3] Accordingly, El Paso Global LNG has a substantial interest in any interim final rules as may be issued by the Coast Guard and therefore desires to present its views to the Coast Guard.

The pending rulemaking in this proceedings provides a means for the Coast Guard to receive public input on the content of interim rules that is both consistent with the purposes of the rulemaking while not delaying the issuance of either the rules contemplated in this

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[1] Pub. L. No. 107-295, 116 Stat. 2064 (2002).

[2] *See,* § 106 of Title 1 of the Maritime Transportation Security Act.

[3] In a notice published in the *Federal Register* on December 27, 2002 regarding an application for issuance of a license to construct and operate a natural gas deepwater port requested by Port Pelican LLC, the Coast Guard stated with regard to its consideration of that application that while the current regulations would govern its review of the application, those regulations could be amended by interim rules authorized by the 2002 Amendments, in which event the amended regulations would govern further processing of that application. 67 *Fed.Reg.* 79234. Accordingly, it is certain that interim rules that may be issued by the Coast Guard will impact currently pending applications.

proceeding or the interim rules authorized by the 2002 Amendments. Specifically, the comments and proposed revisions set forth below will aid in ensuring that updated rules promote the development of new natural gas deepwater ports.

As discussed below, there are differences between natural gas deepwater ports and deepwater ports for oil, with certain types of natural gas deepwater ports exhibiting significant differences. Accordingly, permitting the filing of views regarding how the regulations should be modified to address those differences will provide the public an opportunity to help ensure that any interim rules adopted by the Coast Guard will in fact promote the development of natural gas deepwater ports. Moreover, because this rulemaking is already pending, an ongoing proceeding already exists to obtain public input regarding how the 2002 Amendments should be reflected in interim rules. El Paso Global LNG therefore requests that the Coast Guard waive its previous order directing that comments be filed in this rulemaking proceeding by no later than September 18, 2002, 67 *Fed. Reg.* 53764 (August 19, 2002) and permit these comments to be filed for the purpose of updating the rules and ensuring that they promote the development of deepwater ports.

The changes proposed herein by El Paso Global LNG are required to be reflected in interim final regulations if construction and operation of natural gas deepwater ports is to be encouraged. Further analysis and modifications to the regulations may be required in the final regulations and El Paso Global LNG reserves to right to participate in further rulemaking proceedings to develop those rules.

COMMENTS

General Comments:

The currently-effective DWPA regulations, as well as those proposed by the Coast Guard in its May 30, 2002 notice of proposed rulemaking, 67 *Fed. Reg.* 37920 (2002) ("NPRM"), address the regulation of deepwater ports that are constructed and operated to handle oil. With the enactment of the 2002 Amendments, however, revised rules must address the construction and operation of natural gas deepwater ports. This requires that the rules be reviewed to determine the applicability of each to natural gas. In some instances the applicability of a particular regulation can be achieved solely by revising the text of a particular regulation to include the term "natural gas". That change has been made throughout the text of the regulations. In other instances, the text of the regulations has been modified to clarify that a particular provision applies only to a deepwater oil port. For example, in Appendix A to Part 148, Part II(b)(7), the language has been changed to clarify that the requirement to have discharge prevention and mitigation personnel present at critical points during a transfer applies only to oil transfers. That is because a transfer of natural gas does not pose the pollution risks that characterize oil transfers.

Additionally, certain proposed revisions reflect the changes to the DWPA mandated by the 2002 Amendments. Wherever applicable and evident on the basis of the language of a regulation, that type of change is merely reflected in the revisions proposed by El Paso Global LNG to Parts 148, 149 and 150 of the regulations but may not be specifically discussed in these comments. Additionally, certain other changes made to the regulations are made to conform to other changes being proposed by El Paso Global LNG. The conforming changes are not discussed in every instance.

Lastly, it is clear from the applications already filed for natural gas deepwater ports that new technologies and methodologies will be deployed by license applicants, beyond what appears to have been contemplated in the proposed regulations, *e.g.*, unmanned ports. Thus, El Paso Global LNG has set forth some initial suggestions for how those new designs might be reflected in the regulations. El Paso Global LNG expects with more time and experience with the new designs, further modifications to the regulations may be warranted..

To aid the Coast Guard in reviewing El Paso Global LNG's proposed changes, all are set forth in a draft of the regulations that is attached to these comments at "Attachment A". Also, to highlight the changes being proposed by El Paso Global LNG, attached as "Attachment B" is a "red-lined" draft that compares El Paso Global LNG's proposed changes to the regulations proposed by the Coast Guard in its May 30, 2002 NPRM. All of the references to regulations are to the proposed regulations set forth in the May 30, 2002 NPRM.

Specific Comments:

Part 148 – Deepwater Ports - General

Subpart A - Definitions - § 148.5

Crude oil – A new subparagraph (4) has been added to this definition to clarify that the distinctions made between natural gas and oil in other parts of the regulations are not undone because certain hydrocarbons present in the natural gas stream might, as a consequence of the currently-proposed, broad definition of crude oil, otherwise subject a deepwater natural gas port to those regulations associated with oil transfers, *e.g.*, pollution prevention and response capabilities.

Deepwater port – This definition has been modified to reflect that the 2002 Amendments require an expansion of the definition. Also, the definition has been modified to ensure that advances in technology will be reflected in what comprises a deepwater port.

Flexible riser – This proposed change, which is directly attributable to changes in technology that permit the operation of new types of deepwater natural gas ports, is required because a natural gas deepwater port that is comprised of a buoy system will use equipment different from that used either for deepwater oil ports or other types of deepwater natural gas ports.

Mcf, MMcf, Mscf, and **MMscf** – These additions to the definitions are necessary to reflect that natural gas is measured in units, *i.e.*, cubic feet and its multiples, different than oil, which is measured in barrels.

Manned and **unmanned deepwater port** – When the regulations implementing the DWPA initially were adopted, they were intended to apply to deepwater ports such as the Louisiana Offshore Oil Port ("LOOP"), a permanently manned port. Certain types of natural gas deepwater ports would, if constructed, also have personnel at a port on a continuous basis to operate the port, including operation of regasification and storage facilities located at the port. Other types of natural gas deepwater ports, however, such as those proposed by an affiliate of El Paso Global LNG, will not have personnel either permanently located at the port or present for extended periods of time. For example, advances in technology now permit regasification to occur onboard a vessel, with the port serving solely as a means for transferring regasified LNG to downstream transmission facilities. As a consequence, no personnel will be located on the port either permanently or for extended periods of time. Moreover, any fixed offshore facilities, such as a meter platform, associated with this type of port may be visited only on an intermittent

basis for purposes of maintenance or to check equipment. Intermittent visits of this type should not result in a deepwater port being viewed as a manned port. To address these differences, El Paso Global LNG proposes that the definitions be revised to reflect that different technologies may result in some ports being manned while other ports are unmanned. In this regard, El Paso Global LNG has reviewed other regulations administered by the Coast Guard and submits that those set forth in Subchapter N of Title 33 of the Code of Federal Regulations, which relates to Outer Continental Shelf activities, are instructive. Specifically, § 140.10 of those regulations defines a manned facility or manned platform as facilities on which persons are "routinely accommodated for more than 12 hours in successive 24 hour periods." Thus, to be manned, personnel would have to be located on a facility for more than 12 of every 24 hours on a regular, continuous basis. In such circumstances, while a deepwater port operator, such as El Paso Global LNG's affiliate, might have personnel on a deepwater port facility, such as a metering platform, on an intermittent basis for a limited number of days during a year, their presence would not be on successive days on a continuous basis. Accordingly, El Paso Global LNG submits that the regulations should be revised to reflect that a manned deepwater port should not include one in which intermittent visits occur during the course of a year.

The need to distinguish between manned and unmanned ports is demonstrated, for example, with respect to such provisions as the type of lifesaving and safety equipment that a port must have available, aids to navigation and lighting required for a port, emergency power supplies that must be available at a port and the medical facilities that a port must provide, *see,* Part 149 generally. The distinction is also applicable with regard to the number, qualifications and duties of personnel to be located at a port, *see generally,* Part 150. In each instance, the applicability of a regulation should depend on whether a port is manned or unmanned.

Accordingly, throughout the attached document, El Paso Global LNG is proposing changes to the regulations to distinguish between manned and unmanned deepwater ports.

Messenger line – This new definition reflects that deepwater port that is comprised of a submerged turret buoy uses different equipment than other types of deepwater ports.

Pipeline end manifold – The change in this definition is intended to more precisely define the term, especially as it may be used as a part of a system that uses a submerged turret buoy to transfer natural gas from a vessel to downstream pipelines.

Single point mooring – This change reflects new technology that allows a single point mooring to both moor a vessel and to be used as the means for directly transferring natural gas from a vessel, via a submerged turret buoy, to a flexible riser, after which the natural gas is delivered to transporting pipeline facilities.

Single point mooring natural gas transfer system – This new definition is intended to describe that part of a deepwater natural gas port that comprises the transfer system for delivering natural gas from a vessel to downstream pipeline facilities.

Subpart B - Content of an application - § 148.105

Revisions to information required from affiliates – Throughout this section, El Paso Global LNG proposes that the information required from affiliates be modified. The proposed regulations currently impose on an affiliate of an applicant an obligation to disclose information. An affiliate is defined in the regulations as a "person"

> (1) That has an ownership interest, direct or indirect, of more than 3 percent in an "applicant";
>
> (2) That offers to finance, manage, construct, or operate the "applicant's" "deepwater port" to any significant degree;
>
> (3) That owns or "controls" an "applicant" or any entity under paragraphs (1) or (2) of this definition; or

> (4) That is owned or "controlled: by, or under common wnership with, any "applicant" and is an entity under paragraphs (1), (2), or (3) of this definition.

A broad interpretation of the definition could require every affiliate of an applicant to provide the information required by § 148.105 of the proposed regulations, regardless of whether an affiliate would have any relationship to the construction, operation or use of a deepwater port except for the fact that it is affiliated with an applicant. For major corporations the number of affected affiliates could be in the scores, if not the hundreds. Such a broad-reaching interpretation does not serve any regulatory or other useful purpose and is contrary to the goal announced in the NPRM that the regulations should be simplified and should encourage the construction of additional deepwater ports.

While the regulations are consistent with the underlying statute in defining an "affiliate" as any entity that has a 3 percent ownership interest in an applicant, this does not compel the Coast Guard to extend its information gathering to all such defined affiliates. Under § 1504(c)(2) of the DWPA, the Secretary has discretion to determine the financial, technical and other information necessary to be included in an application. El Paso Global LNG submits that such discretion should be used to refine the proposed regulation to require that the information requirements of proposed § 148.105 be modified so that they are only applicable to "each affiliate that will participate directly in the financing, management, construction, operation or use of the deepwater port." This modification will achieve a reasonable balance between the information needs of the Coast Guard necessary to evaluate a license application while limiting the scope of the regulation to those affiliates whose activities are related to the construction, operation or use of the deepwater port.

Also proposed to be modified is § 148.105(a)(5) of the proposed regulations, which requires an applicant and affiliates, among other things, to report "any violations of state or federal laws...and whether there is outstanding litigation." El Paso Global LNG submits that this requirement is overly broad. The presumed purpose of the regulation is to ensure that sufficient information is provided to enable the Coast Guard to determine whether an applicant will be able to finance, construct or operate a deepwater port. That goal should not require disclosure of all violations and outstanding litigation, but only those that will have a material, adverse effect on an applicant's ability to finance, construct or operate a deepwater port. The change proposed by El Paso Global LNG achieves that result.

El Paso Global LNG also proposes a change to § 148.105 (i), which requires an applicant and affiliates to provide annual financial statements. El Paso Global LNG submits that such reports may currently exist on either an individual or consolidated basis. Rather than having to prepare financial statements in a different format solely to comply with the proposed regulation, El Paso Global LNG submits that an applicant and affiliates should be permitted to use existing financial statements to comply with the requirements of this regulation. The proposed change will enable the Coast Guard to obtain the financial information it seeks while ensuring that an applicant and affected affiliates are not overly burdened by having to provide information in a format different from the format in which it already exists. In this regard, El Paso Global LNG notes that Port Pelican LLC, which has applied for a natural gas deepwater port license in Docket USCG -2002-14134, filed its financial data on a consolidated basis and that application was found by the Coast Guard to be "substantially complete".

Subpart B – Copies of application - § 148.115

El Paso Global LNG understands that, rather than an applicant forwarding a copy of the application to the U.S. Army Corps of Engineers as required in subsection (b), the preferred practice of the Coast Guard is that the applicant provide an additional copy of the application to the Coast Guard, which will forward that copy to the Corps of Engineers. That understanding is set forth in El Paso Global LNG's proposed revision to the regulation.

Subpart B – Application fees - § 148.125

The proposed regulations provide that in the event the costs of processing an application exceed the application fee of $350,000.00, the applicant will be charged the additional costs. El Paso Global LNG proposes that the procedure for assessing an applicant for additional costs be clarified to provide that the payment of additional assessments be required to be made 60 days after an applicant is invoiced. Depending on the amount of an additional assessment, an applicant may need authorization from its board or other oversight group to make such payments and a 60 day period would allow an applicant adequate time to obtain authorization to make potentially large payments.

Subpart C – Claims and objections to claims - § 148.221

This section relates to claims of privilege or immunity for information filed in a proceeding. El Paso Global LNG proposes that subsections (e) and (f) of this section be modified to make clear that if disclosure of information is contemplated by the Commandant (G-M) or a presiding officer, an applicant, or any other person, should be given the opportunity to propose procedures for the disclosure of information. In this regard, for example, while disclosure may be deemed necessary for third parties to fully evaluate an application, the person claiming the privilege may wish to propose that the information be disclosed to only certain

representatives of third parties in order to prevent the information from being used by other employees or other representatives for purposes unrelated to the application proceeding. Similarly, the person claiming the privilege may wish to propose procedures to prevent information from being disclosed to persons that are not participants in an application proceeding but who might wish to gain access to certain information for competitive or other purposes unrelated to the processing of an application. The modifications to subsections (e) and (f) will help to achieve those purposes.

Subpart C – Public meetings - § 148.222

Subsection (b) of this section provides that an interested person can request a copy of a notice of a public meeting. The modification proposed herein would clarify that a request can be made at any time after a person becomes aware that an application has been filed. In this regard, the processing of an application by the Coast Guard must be completed in a relatively short period of time. As a consequence, after a notice of a public meeting is issued, there may be only a very short period of time before the public meeting is convened. In such circumstances, an interested third party that wishes to be informed of the public meeting so that attendance or participation can be planned would benefit from receiving notice as soon as possible. The proposed modification will aid in achieving that result.

Subpart C – Criteria for approval of an application - § 148.279

Section 148.279(b)(3) requires that in considering an application, the Secretary must consider the "environmental impact statement" prepared as a part of the application. The 2002 Amendments changed the DWPA to eliminate the requirement that an environmental impact statement be prepared. Instead, the statute , at § 1504(f), now provides that the Secretary of Transportation must comply with the National Environmental Policy Act of 1969, which allows

the preparation of either an environmental impact statement or an environmental assessment. The proposed change to § 148.279(b)(3) mirrors the change to the statute.

Subpart E – Site evaluations and reporting - § 148.415(a)

This section requires a potential applicant that is conducting site evaluation or pre-construction testing activities to immediately report to the Commandant (G_M) any evidence of cultural, historical or archeological objects of significance. A potential applicant is also required to immediately report any adverse effects on such objects. El Paso Global LNG submits that the requirements of this regulation are based on incorrect premises and the proposed regulation should therefore be modified by the Coast Guard.

When conducting site evaluations, a potential applicant will conduct surveys that may provide "data points" of information. It is unclear from the proposed regulations if the mere existence of such data points and an applicant's detection of such information are expected to trigger the reporting requirements of this section. For example, an "acoustic anomaly" from a sonar survey that are a part of a site survey is not specific enough to know what is creating the anomaly. The proposed regulations, however, could be interpreted as requiring that the anomaly be immediately reported to the Coast Guard, without regard to whether it in fact represents a significant cultural resource.. Moreover, a particular anomaly may be outside the area ultimately chosen by an applicant for location of deepwater port facilities. Thus, the requirement to report evidence of cultural resources is both too vague and, in any event, is triggered too early in the process. After detection of these types of data points, there is no information about the identity of an object or its significance. Rather, it is only after a potential site for a deepwater port or a route for a pipeline is preliminarily selected will a determination be made about whether a deepwater port will approach an object. Even then, however, it is not known whether an object

has any significance. That determination will only begin after further investigation is conducted, using, for example, divers to view a submerged object. It is only after that information is obtained and evaluated that a determination can be made about whether an object has significance and requires reporting to the Coast Guard and other agencies such as a state historic preservation office. Accordingly, to better reflect actual practice and not overly burden either a potential applicant or the Coast Guard with reports of every data point, some of which ultimately may have no significance or may be unaffected by the final location of a deepwater port, El Paso Global LNG submits that the regulation be modified to provide that a reporting obligation is triggered only after an object has been analyzed and identified as having significance.

El Paso Global LNG also proposes that the language of subsections (a)(2), (3) and (5) of this section be modified to clarify that while a site evaluation can generally identify data points, it cannot identify adverse effects. Rather, the more reasonable interpretation appears to be that if a person conducting a site survey engages in an activity that causes an adverse effect, that should be reported to the Coast Guard. Accordingly, the regulation had been modified to reflect that understanding.

Subpart G – Limits of liability

El Paso Global LNG proposes that this subpart be clarified to make clear that it is applicable only to deepwater oil ports.

Subpart H – Access to natural gas deepwater ports - § 148.710

El Paso Global LNG proposes that this new section be included in the regulations to reflect the language of the 2002 Amendments which amended DWPA § 1507 by adding a new subsection (d) regarding managed access. The regulations should reflect that a licensee for a

deepwater port, or its affiliate, has the right to the exclusive use of a natural gas deepwater port and is required to make capacity available only as the licensee determines in its sole discretion.

Part 149 – Deepwater Ports – Design, Construction and Equipment

Subpart E – Lights on single point moorings - § 149.540

El Paso Global LNG proposes that this section be modified to reflect that advances in technology now permit a single point mooring buoy to be used to transfer natural gas from a vessel. Because that type of SPM buoy may be submerged when not attached to a vessel, the requirement that obstruction lights be affixed in not applicable. Nevertheless, the revised regulation provides that a messenger line attached to a buoy will be fitted with a lighted marker.

Part 150 – Deepwater Ports – Operations

Subpart C – Personnel

As discussed, a natural gas deepwater port may not require that personnel be stationed on the port because the configuration of the port and the technology applicable to its operation may be different from other ports. In such circumstances, at an unmanned port the tasks to be performed and the personnel required to perform those tasks may differ significantly from ports such as LOOP or other natural gas deepwater ports that are manned. To recognize this difference, El Paso Global LNG proposes that this subpart be separated into a Subpart C(1) and a Subpart C(2), with the former applicable to manned ports and the latter applicable to unmanned ports. Moreover, for manned ports, El Paso Global LNG proposes that further distinctions are necessary between manned natural gas deepwater ports and oil deepwater ports. Thus, for example, while it is common for oil deepwater port personnel to be experienced in dealing with crude oil vessels of 70,000 deadweight tons or greater, those that will man natural gas deepwater ports will have dealt with smaller vessels, typically liquid or liquefied gas tankers of

approximately 30,000 deadweight tons or greater. That difference in experience is due to the smaller size of vessels that transport liquid or liquefied gas, such as propane, or natural gas and should be reflected in the regulations. That difference should also be reflected in the different type of shiphandling courses that must be completed by different personnel, as exemplified in § 150.235(a)(1)(i)(A).

For unmanned natural gas deepwater ports, the number, qualifications and duties of personnel will be markedly different. To recognize those differences, El Paso Global LNG submits that its proposed regulations should be adopted by the Coast Guard. Those proposed regulations would require an applicant to submit its proposal regarding the number, qualifications and duties of personnel as a part of its proposed operations manual. The Commandant (G-M), in consultation with the COTP, would thereafter review that proposal to determine whether an applicant's proposal is adequate to meet Coast Guard requirements. If so, that part of the operations manual would be approved or, alternatively, an applicant would be instructed to modify its operations manual.

Revising the regulations to address different personnel requirements for unmanned deepwater ports will require changes to other regulations. For example, § 150,435(a) would need to be changed to provide that a cargo transfer of natural gas could be approved by the person designated in the operations manual, rather than a Cargo Transfer Assistant. A similar change would be required for § 150.440 where a new subsection (b) is proposed. This appears to be consistent with the DWPA, which specifies at section 1503(3)(1) that the conditions required to carry out the provisions of the DWPA should be addressed in license conditions, and, to the extent practicable, stated in an operations manual approved by the Coast Guard.

Subpart D – Vessel navigation

Vessel navigation requirements will also differ depending on whether a deepwater port is manned or unmanned. Accordingly, El Paso Global LNG proposes that this subpart also be separated into a Subpart D(1) applicable to manned deepwater ports and a Subpart D(2) applicable to unmanned deepwater ports. With respect to a new Subpard D(2), El Paso Global LNG proposes that the Coast Guard adopt the same procedures as are proposed for new Subpart C(2), *i.e.*, specify in the operations manual the navigation requirements, rather than in regulatory text. Again, this appears to be consistent with the DWPA text referenced above, indicating a preference for including requirements in operations manuals rather than in regulations..

Subpart E – Vessel connections - § 150.430

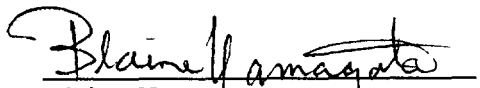
El Paso Global LNG proposes that a new subsection (c) be added to this regulation. The new subsection would recognize that a deepwater port might utilize a proprietary connection system. The use of that proprietary system would not, however, pose a safety risk inasmuch as the proposed revision would require that a licensee would be required to demonstrate that the connection system is safe.

CONCLUSION

El Paso Global LNG respectfully requests that the Coast Guard permit these supplemental comments to be filed and that the Coast Guard incorporate the proposed changes into interim rules governing the construction and operation of natural gas deepwater ports.

Respectfully submitted,

El Paso Global LNG Company



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ATTACHMENT A

33 CFR Parts 148, 149, and 150
Deepwater Ports
67 FR 37920

PART 148--DEEPWATER PORTS: GENERAL
SUBCHAPTER NN--DEEPWATER PORTS

Subpart A--General

Subpart B--Application for a License

Subpart C--Processing Applications
General

Public Meetings

Formal Hearings

Authority: *33 U.S.C. 1504;* 49 CFR 1.46.

Subpart A--General

§ 148.1 -- What is the purpose of this subchapter?

This subchapter prescribes regulations for the licensing, construction, design and equipment, and operation of deepwater ports under the Deepwater Port Act of 1974, as amended *(33 U.S.C. 1501*-1524) (the Act).

§ 148.2 -- Who is responsible for carrying out this subchapter?

Unless otherwise specified, the owner of a deepwater port must ensure that the requirements of this subchapter are carried out at that port.

§ 148.3 -- What Federal agencies are responsible for carrying out the Deepwater Port Act?

Under 49 CFR 1.46(s), the Coast Guard is authorized to do the following:

(a) To process applications for the issuance, transfer, or amendment of licenses for deepwater ports in coordination with the Administrator of the Maritime Administration; and

(b) To carry out the functions and responsibilities vested in the Secretary of Transportation by the Act, except for those--

(1) Reserved by the Secretary of Transportation under 49 CFR 1.44(o) (authority to issue, transfer, and amend a license);

(2) Delegated to the Administrator of the Maritime Administration under 49 CFR 1.66(aa) (approval of fees charged by adjacent coastal States and certain matters relating to international policy, civil actions, and suspension or termination of licenses); and

(3) Delegated to the Administrator of the Research and Special Programs Administration under 49 CFR 1.53(a)(3) (pipelines).

§ 148.5 -- How are terms used in this subchapter defined?

(a) Quotation marks around terms in this section mean that those terms are defined in this section.

(b) As used in this subchapter--

Act means the Deepwater Port Act of 1974, as amended *(33 U.S.C. 1501-*1524).

Adjacent coastal State means any "coastal State" that--

(1) Would be directly connected by pipeline to a "deepwater port";

(2) Would be located within 15 miles of a "deepwater port"; or

(3) Is designated as an "adjacent coastal State" by the Secretary of Transportation under *33 U.S.C. 1508*(a)(2).

Administrator of the Maritime Administration means the Associate Administrator, Port, Intermodal and Environmental Activities, Maritime Administration, or that individual's authorized representative, at 400 Seventh Street SW., Washington, DC 20590, telephone 202-366-4721.

Affiliate means a "person"--

(1) That has an ownership interest, direct or indirect, of more than 3 percent in an "applicant";

(2) That offers to finance, manage, construct, or operate the "applicant's" "deepwater port" to any significant degree;

(3) That owns or "controls" an "applicant" or an entity under paragraphs (1) or (2) of this definition; or

(4) That is owned or "controlled" by, or under common ownership with, an "applicant" and is an entity under paragraphs (1), (2), or (3) of this definition.

Applicant means a "person" that is the owner of a proposed deepwater port and that is applying for a license under this part for that port.

Application means an application submitted under this part for a license to own, construct, and operate a deepwater port.

Approval series means the first six digits of a number assigned by the Coast Guard to approved equipment. Where approval is based on a subpart of 46 CFR chapter I, subchapter Q, the approval series corresponds to the number of the subpart. A list of approved equipment, including all of the approval series, is available at *http://www.uscg.mil/hq/g-m/mse/equiplistexpl.htm.* The last printed version of the list, current only up through 1994, is published in COMDTINST M16714.3 (Series), Equipment List, and is available from Superintendent of Document, P.O. Box 371954, Pittsburgh, PA 15250, or by phone at 202-512-1800.

Approved means approved by the "Commandant (G-M)".

Barrel means 42 U.S. gallons (159 liters) at atmospheric pressure and 60[deg] Fahrenheit (16[deg] Celsius).

British Thermal Unit ("Btu") means the quantity of heat required to raise the temperature of one (1) pound avoirdupois of pure water from fifty-eight and five-tenths degrees Fahrenheit (58.5°F) to fifty-nine and five-tenths degrees Fahrenheit (59.5°F) at a constant pressure of fourteen and seventy-three hundredths pounds per square inch absolute (14.73 psia).

Captain of the Port or *COTP* means a Coast Guard officer who commands a Captain of the Port zone described in part 3 of this chapter and who is immediately responsible for enforcing port safety and security and marine environmental protection regulations within that area.

Citizen of the United States means--

(1) An individual who is a United States citizen by law, birth, or naturalization;

(2) A "State";

(3) An agency of a "State" or a group of "States"; or

(4) A corporation, partnership, or association--

(i) That is organized under the laws of a "State" or the United States;

(ii) That has, as its president or other executive officer, an individual who is a United States citizen by law, birth, or naturalization;

(iii) That has, as its chairman of the board of directors or holder of a similar office, an individual who is a United States citizen by law, birth, or naturalization; and

(iv) That has at least the number of directors required for a quorum necessary to conduct the business of the board who are United States citizens by law, birth, or naturalization.

Coastal environment means the navigable waters (including the lands in and under those waters), internal waters, and the adjacent shorelines (including waters in and under those shorelines). The term includes transitional and inter-tidal areas, bays, lagoons, salt marshes, estuaries, and beaches; the fish, wildlife, and other living resources of those waters and lands; and the recreational and scenic values of those lands, waters, and resources.

Coastal State means a State of the United States in or bordering on the Atlantic, Pacific, or Arctic Oceans or the Gulf of Mexico.

Commandant (G-M) means the Assistant Commandant for Marine Safety, Security and Environmental Protection, or that individual's authorized representative, at Commandant (G-M), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001.

Construction means the supervising, inspection, actual building, and all other activities incidental to the building, repairing, or expanding of a

"deepwater port" or any of its components. The term includes, but is not limited to, pile driving and bulkheading and alterations, modifications, or additions to the "deepwater port".

Control means the power, directly or indirectly, to determine the policy, business practices, or decision-making process of another "person", whether by stock or other ownership interest, by representation on a board of directors or similar body, by contract or other agreement with stockholders or others, or by other means.

Crude Oil means a mixture of hydrocarbons that exist in the liquid phase in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities and includes--

(1) Liquids technically defined as crude oil;

(2) Small amounts of hydrocarbons that exist in the gaseous phase in natural underground reservoirs but are liquid at atmospheric pressure after being recovered from oil well (casing head) gas in lease separators; and

(3) Small amounts of non-hydrocarbons produced with the oil.

(4) Notwithstanding the foregoing provisions, the term "crude oil" shall not apply to any hydrocarbons present in "natural gas" that is imported and regasified.

Deepwater port means a fixed or floating man-made structure (other than a "vessel" or any equipment permanently affixed to a vessel, including "regasification equipment" located on board a vessel), or a group of structures, located beyond the territorial sea and off the coast of the United States and that are used, or intended for use, as a port or terminal for the transportation, storage, and further handling of oil or natural gas for transportation to any "State" (except as otherwise provided in *33 U.S.C. 1522)*, and for other uses not inconsistent with the purposes of this subchapter, including transportation of oil or natural gas from the United States Outer Continental Shelf. The term includes a "single point mooring" buoy or buoys and "single point mooring natural gas transfer system". The term also includes all associated components and equipment, including pipelines, "regasification equipment" located on the fixed or floating man-made structure, compressors, dehydration equipment, metering facilities and metering platforms, pumping stations, service platforms, mooring lines, anchor lines, buoys, and similar appurtenances which are proposed and/or approved for construction and operation as part of the deepwater port, to the extent they are located seaward of the high water mark; provided, however, that any downstream interconnecting pipelines and appurtenant facilities for which the port owner or operator or any other person obtains separate authorization under the Natural Gas Act, at 15 U.S.C. 717 et seq., or under any other applicable state or federal statute, will be deemed not included within the definition of the "deepwater port" for the purposes of determining jurisdiction under the "Act".

District Commander means an officer who commands a Coast Guard District described in part 3 of this chapter or that individual's authorized representative.

Flexible riser means a multi-layered flexible pipeline used to connect a floating structure or "single point mooring" buoy to a "pipeline end manifold".

Governor means the Governor of a "State" or the "person" designated by State law to exercise the powers granted to the Governor under the Act.

Gross under-keel clearance means the distance between the keel of a tanker and the ocean bottom when the tanker is moored or anchored in calm water free of wind, current, or tide conditions that would cause the tanker to move.

Hose string means the part of a "single point mooring oil transfer connection" made out of flexible hose of the floating or float/sink type that connects the tanker's manifold to the "single point mooring".

Lease block means an area established either by the Secretary of the Interior under section 5 of the Outer Continental Shelf Lands Act *(43 U.S.C. 1334)* or by a State under section 3 of the Submerged Lands Act *(43 U.S.C. 1311)*.

License means a license issued under this part to own, construct, and operate a "deepwater port".

Licensee means a citizen of the United States holding a valid license for the ownership, construction, and operation of a deepwater port that was issued, transferred, or renewed under this subchapter.

Mcf means one thousand (1,000) cubic feet.

MMcf means one million (1,000,000) cubic feet.

MMBtu means one million (1,000,000) Btus.

Mscf means one thousand (1,000)cubic feet at standard conditions of 60 degrees Fahrenheit and 14.7 pounds per square inch.

MMscf means one million (1,000,000) cubic feet at standard conditions of 60 degrees Fahrenheit and 14.7 pounds per square inch.

Manned deepwater port means any "deepwater port" on which people are routinely accommodated for more than 12 hours in successive 24 hour periods.

Marine environment includes the "coastal environment", waters of the contiguous zone, the exclusive economic zone, and the high seas; the fish, wildlife, and other living resources of those waters; and the recreational and scenic values of those waters and resources.

Messenger line means a line floating on the surface of the water and used to assist in the retrieval of a submerged turret mooring buoy, including all markers, lights and appurtenances connect to the floating line.

Natural Gas means either natural gas unmixed, or any mixture of natural gas, including compressed or liquefied natural gas.

Net under-keel clearance means the distance between the keel of a tanker and the ocean bottom when the tanker is underway, anchored, or moored and subject to actual wind, waves, current, and tide motion.

Officer in Charge, Marine Inspection, or *OCMI* means an individual who commands a Marine Inspection Zone described in part 3 of this chapter and who is immediately responsible for the performance of duties with respect to inspections, enforcement, and administration of regulations governing a "deepwater port".

Oil means petroleum, crude oil, and any substance refined from petroleum or crude oil.

PAD District means one of the five Petroleum Administration for Defense Districts defined by the Energy Information Administration (EIA), Department of Energy, in their Petroleum Supply publications and U.S. Refinery Operations information available from the EIA at Energy Information Administration, National Energy Information Center, 1000 Independence Avenue SW., Washington, DC 20585 or at *http://www.eia.doe.gov/oil-gas/petroleum/pet-frame.html*

Person means an individual, corporation, partnership, limited liability partnership, limited liability company, association, joint venture, or trust arrangement and includes a trustee, beneficiary, receiver, or similar representative of any of them.

Personnel means individuals who are employed by licensees, operators, contractors, or subcontractors and who are on a "deepwater port" by reason of their employment.

Pipeline end manifold means the pipeline end manifold at a "single point mooring" at which the flexible riser, from the "single point mooring" buoy to the seabed, is connected to the fixed subsea pipeline which transports the "oil" or "natural gas" to the shore.

Platform means a fixed structure that rests on, is attached to, or is embedded in the seabed and that may have floors or decks where an activity or specific function may be carried out, but does not include floating or fixed "single point mooring" buoys.

Production District means the States of Louisiana, New Mexico, and Texas and each district within those states for which the Energy Information Administration (EIA), Department of Energy, separately reports production of crude oil.

Pumping platform complex means a "platform" or a series of interconnected "platforms" with the exception of a series of interconnected "single point mooring" buoys or an "unmanned port", that have one or more of the following features or capabilities:

(1) Can pump oil or natural gas between a "vessel" and facilities, either onshore or offshore, that are not subject to the "Act".

(2) Can handle the mooring and loading of small "vessels".

(3) Have berthing and messing facilities.

(4) Have a landing area for helicopters.

Refining District means a refining district as defined by the Energy Information Administration (EIA), Department of Energy, for reporting refining operations. The refining districts are subsidiaries of "PAD Districts" and can be found listed in EIA's Petroleum Supply publications and U.S. Refinery Operations information available from the EIA at Energy Information Administration, National Energy Information Center, 1000 Independence Avenue SW., Washington, DC 20585 or at *http://www.eia.doe.gov/oil-gas/petroleum/pet-frame.html.*

Regasification equipment means any facilities, whether located on a fixed or floating manmade structure or aboard a vessel, necessary to convert liquefied natural gas to a gaseous state.

Safety zone means a safety zone of a size determined to be appropriate by the Coast Guard and established around a "deepwater port" for purposes of navigational safety and that is designated in Appendix A to Part 150, of this chapter.

Single point mooring or *SPM* means a fixed or floating offshore berth or mooring attachment, including SPM buoys,that links an undersea pipeline to a tanker moored to the mooring and provides for safe mooring of the tanker and allows for the transfer of oil or natural gas between the tanker and the pipeline.

Single point mooring-oil transfer system or *SPM-OTS* means the part of the oil transfer system from the "pipeline end manifold" to the end of the "hose string" that connects to the tanker's manifold.

Single point mooring natural gas transfer system, or *SMP-NGTS,* means the part of the natural gas transfer system that extends from the "SPM" buoy through the "flexible riser" and continues through the pipeline end manifold and including pipelines that are part of the "deepwater port".

State includes each of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

Support vessel means a--

(1) Tug;

(2) Linehandling boat;

(3) Crewboat;

(4) Supply vessel;

(5) Bunkering vessel;

(6) Barge; or

(7) Other similar vessels working for a licensee at a deepwater port or cleared by a licensee to service a tanker calling at a deepwater port.

Survival craft means a craft capable of sustaining the lives of persons in distress after abandoning a port. The term includes lifeboats, life rafts, buoyant apparatus, survival capsules, and life floats. The term does not include "rescue boats," unless the "rescue boats" are also "approved" as lifeboats.

Tanker means a vessel that calls at a "deepwater port" to unload oil or "natural gas" at a "single point mooring".

Unmanned deepwater port means any deepwater port other than a "manned deepwater port".

Vessel means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on or through the water.

§ 148.10 -- How can I get a copy of a publication referenced in this subchapter?

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under *5 U.S.C. 552*(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the Federal Register; and the material must be available to the public. All approved material is available for inspection at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC, and at the U.S. Coast Guard, Office of Operating and Environmental Standards, 2100 Second Street SW., Washington, DC 20593-0001, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this subchapter and the sections affected are as follows:

American Bureau of Shipping (ABS)

ABS Technical Publications, 16855 Northcase Drive Houston, TX 77060	
Rules for Building and Classing Single Point Moorings, 1996	149.650 150.405
ABS Guide for Building and Classing Offshore LNG Terminals (May 2002)	

American National Standards Institute (ANSI)

11 West 42nd Street, New York, NY 10036, or on the Internet at http://www.ansi.org	
ANSI B31.4-98, Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids, 1998 edition	149.625

American Petroleum Institute (API)

Order Desk, 1220 L Street, NW, Washington, DC, 20005-4070, or on the Internet at http://www.api.org

API *RP 2A*-WSD, Working Stress Design, Twentieth Edition, December, 2000	149.625
API *RP 2A*-LRFD, Load and Resistance Factor Design, First Edition, February, 1997	149.625
API *RP 2L*, Recommended Practice for Planning, Designing and Constructing Heliports for Fixed Offshore Platforms, May 1996	149.625
API RP T-1, Orientation Programs for Personnel Going Offshore for the First Time, Fourth Edition, October 1995	150.250
API RP T-4, Training of Offshore Personnel in Non-operating Emergencies, Second Edition, November 1995	150.250
API RP T-7, Training of Personnel in Rescue of Persons in Water, Second Edition, October 1995	150.250
API-RP-75, Recommended Practice for Development of a Safety and Environmental Management Program for Outer Continental Shelf (OCS) Operations and Facilities, 1998 ed.	

American Society of Mechanical Engineers (ASME)

3 Park Avenue, New York, NY 10016-5990

Boiler and Pressure Vessel Code, sections I, IV, and VIII, 2001 edition	149.625

International Association of Marine Aids to Navigation and Lighthouse Authorities (AISM/IALA)

20 ter, rue Schnapper, 78100 Saint Germain en Laye, France

Recommendations for the Colours of Light Signals on Aids to Navigation	149.525
Recommendations on the Determination of the Luminous Intensity of a Marine Aid to Navigation Light, December 1977	149.521

National Fire Protection Association (NFPA)

Secretary, Standards Council, National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101.

NFPA 72, National Fire Alarm Code[reg], 1999 Edition	149.405
NFPA 407, Standard for Aircraft Fuel Servicing, 1999 Edition	149.655
NFPA 59A, Standard for the Production, Storage and Handling of Liquified Natural Gas (LNG), 2001 ed.	

Underwriters Laboratories, Inc. (UL)

Available from: Global Engineering Documents, 15 Inverness Way East, Englewood, CO 80112; telephone 800-854-7179

UL 19 Lined Fire Hose and Hose Assemblies, 2001	149.425
UL Hazardous Location Equipment Directory, 2001, Portable Lighting Units	149.645

Subpart B--Application for a License

§ 148.100 -- What is the purpose of this subpart?

This subpart describes how to apply for a license to own, construct, and operate a deepwater port.

§ 148.105 -- What must I include in my application?

Your application must include the following:

(a) *The identity of the applicant and its affiliates and consultants.* (1) The name, address, telephone number, citizenship, and principal business activity of the applicant and each affiliate that will participate directly in the financing, management, design, construction, operation or use of the deepwater port.

(2) The name, address, and principal business activity of each subsidiary or division of the applicant or its affiliates that participated directly in the decision to apply for a license to build a deepwater port.

(3) A description of each affiliate that will participate directly in the financing, management, design, construction, operation or use of the deepwater port and the ownership interest of each such affiliate in the applicant.

(4) A list of corporate officers and directors of the applicant and each affiliate that participated directly in the decision to apply for a license to build a deepwater port.

(5) A statement on the history of the applicant and affiliates that will participate directly in the financing, management, design, construction, operation or use of the deepwater port for the last 5 years, including whether they filed for bankruptcy and if so the dates, the disposition and any reorganization that may have resulted; whether there have been any violations of state or federal laws and any outstanding litigation that could have a material adverse effect on the applicant's ability to finance, construct or operate a deepwater port.

(6) A declaration regarding lobbying activities on behalf of either the applicant or an affiliate that will participate directly in the financing, management, design, construction, operation or use of the deepwater port under *31 U.S.C. 1352.*

(b) *Experience in matters relating to deepwater ports.* (1) A description of the experience of the applicant, its "affiliates", and its consultants in offshore operations, particularly operations involving the transfer and storage of liquid cargo, natural gas and the loading and unloading of vessels.

(2) For each affiliate with which the applicant has made a significant contract for the design or construction of any part of the deepwater port, a description of that affiliate's experience in design or construction of marine terminal facilities, offshore structures, underwater pipelines, and seabed foundations and a description of other experiences that would bear on the affiliate's qualification to participate in the construction of a deepwater port.

(c) *The identity of each engineering firm, if known, that will design the deepwater port or a portion of the port.* The firm's--

(1) Name;

(2) Address;

(3) Citizenship;

(4) Telephone number; and

(5) Qualifications.

(d) *Information on citizenship, incorporation, and authority of the applicant.*

If the applicant is applying as--	Then the applicant must submit--
(1) An individual, a group of individuals, or a partnership	An affidavit from each individual stating that each is a citizen of the United States of America.
(2) A corporation	One copy of the charter signed by the Secretary of State or authorized official of the State of incorporation and one copy of the corporate by-laws certified by the corporation's secretary or assistant secretary.
(3) A State or combination of States or any political subdivision, agency, or instrumentality of a State, including a wholly owned corporation	A copy of the State laws authorizing the operation of a deepwater port.
(4) A Limited Liability Company	Article of organization and any related amendments.

(e) *Address for service of documents.* The name and address of one individual who may be served with documents in case a formal hearing is held concerning the application, and the name and address of one individual who may receive other documents.

(f) *Location and use.* The proposed location and capacity of the deepwater port and a general description of the anticipated use of the port.

(g) *Financial information.* (1) For the applicant and each affiliate that will participate directly in the financing, management, construction, operation or use of the deepwater port--

(i) Annual financial statements, on an individual or consolidated basis, audited by an independent certified public accountant, for the previous 3 years, including, but not limited to, an income statement, balance sheet, and cash flow statement with footnote disclosures prepared according to U.S. Generally Accepted Accounting Principles; and

(ii) Interim income statements and balance sheets for each quarter, unless included in the most recent annual financial statement, that ends at least 30 days before submission of the application.

(2) An estimate of construction costs, including--

(i) A phase-by-phase breakdown of costs;

(ii) The estimated completion dates for each phase; and

(iii) A detailed estimate of the cost of removing all of the marine components of the deepwater port, other than pipelines that lie beneath the seabed, when operations at the port cease.

(3) Annualized projections or estimates of each of the following, along with the underlying assumptions, for the next 5 years and at reasonable intervals throughout the life of the deepwater port:

(i) Total oil or natural gas throughput and subtotals showing throughput owned by the applicant and its affiliates and throughput owned by others.

(ii) Projected financial statements, including a balance sheet and income statement.

(iii) Annual operating expenses, showing separately any payment made to an affiliate for any management duties carried out in connection with the operation of the deepwater port.

(4) A copy of all proposals or agreements concerning the management and financing of the deepwater port, including agreements relating to throughputs, capital contributions, loans, guarantees, commitments, charters, and leases.

(5) To the extent known to the applicant or its affiliates

(i) For oil, the anticipated--

(A) Total refinery capacity;

(B) Total runs to stills; and

(C) Total demand for gasoline, jet aviation fuel, distillate fuel oils, and other refinery products for each Refining District in the PAD where oil from the deepwater port will be landed, at reasonable intervals throughout the expected useful life of the deepwater port.

(ii) For natural gas, the anticipated

(A) Annual and daily quantities capable of being received at the deepwater port;

(B) Total amount of annual and daily capacity anticipated to be used.

(h) *Construction contract and studies.* (1) A copy of each contract that the applicant made for the construction of any component of the deepwater port or for the operation of the port.

(2) A listing and abstract of--

(i) All completed or ongoing studies on deepwater ports conducted by or for the applicant; and

(ii) All other related studies used by the applicant.

(i) *Compliance with Federal water pollution requirements.* (1) Evidence that the requirements of section 401(a)(1) of the Federal Water Pollution Control Act Amendments of 1972, *33 U.S.C. 1341*(a)(1), will be satisfied.

(2) In those cases where certification under *33 U.S.C. 1341*(a)(1) must be obtained from the Administrator of the Environmental Protection Agency, the request for certification.

(j) *Coastal zone management.* Each certification required by section 307 of the Coastal Zone Management Act of 1972, as amended *(16 U.S.C. 1456)*.

(k) *Identification of lease block.* (1) Identification of each lease block where any part of the proposed deepwater port or its approaches is located. This identification should be made on Official Outer Continental Shelf Leasing Maps or Protraction diagrams, where they are available. For each lease block, provide the following:

(i) A description of each pipeline, or other right-of-way crossing, in enough detail to allow plotting of the rights-of-way to the nearest one-tenth of a second in latitude and longitude.

(ii) The identity of the lessee of each pipeline or other right-of-way.

(2) Detailed information concerning any interest that anyone, including the applicant, has in each block; and

(3) Detailed information concerning the present and planned use of each block.

(l) *Overall site plan.* Single-line drawings showing the location and type of each component of the proposed deepwater port and its necessary facilities constructed and operated pursuant to the Act, including--

(1) Floating structures;

(2) Fixed structures;

(3) Aids to navigation;

(4) Manifold systems; and

(5) Onshore storage areas, pipelines, and refineries.

(m) *Site plan for marine components.* A site plan consisting of the following:

(1) The proposed size and location of all--

(i) Fixed and floating structures;

(ii) SPM swing circles;

(iii) Maneuvering areas;

(iv) Requested security zones

(v) Recommended ships' routing measures and proposed vessel traffic patterns in the port area;

(vi) Recommended anchorage or mooring areas for oil or natural gas vessels;

(vii) Recommended mooring areas for support vessels;

(viii) Required and recommended aids to navigation; and

(ix) Pipelines and cables within the marine site.

(2) The charted water depth throughout the proposed marine site, as verified by the reconnaissance hydrographic survey in paragraph (m)(3) of this section.

(3) A reconnaissance hydrographic survey of the proposed marine site. A requirement to submit an engineering hydrographic survey of the final marine site will be imposed as a condition in the license.

(n) *Soil data.* An analysis of the general character and condition of the ocean bottom, sub-bottom, and upland soils throughout the marine site and along the path of the pipeline to the shore and onshore. The analysis must include an opinion by a registered professional engineer specializing in soil mechanics concerning--

(1) The suitability of the soil to accommodate the anticipated design load of each marine component that will be fixed to or supported on the ocean floor;

(2) The stability of the seabed when exposed to the environmental forces resulting from severe storms or lesser forces that occur over time, including any history of accretion or erosion of the coastline near the marine site.

(o) *Operational information.* (1) The maximum length, draft, and deadweight tonnage of the tankers to be accommodated at each SPM.

(2) Calculations, with supporting data and other documentation, to show that the charted water depth at each proposed SPM location is sufficient to

provide at least a net under-keel clearance of 5 feet (1.5 meters) for each tanker that the applicant expects to be accommodated at the SPM.

(3) A detailed description of the manner of forecasting the wind, wave, and current conditions described in the draft operations manual during which the following would occur:

(i) Shutdown of transfer operations.

(ii) Departure of the tanker from the mooring.

(iii) Prohibition on mooring to an SPM.

(iv) Shutdown of all operations and evacuation of the port.

(4) The speed limits proposed for tankers in the safety zone around the proposed port.

(p) *Data on floating components.* (1) A description and preliminary design drawing of each floating component, including the hoses, anchoring or securing structure, and navigation lights if the component is a non-submerged mooring buoy.

(2) The design criteria, developed under part 149 of the chapter, to which each floating component will be designed and built.

(3) The design standards and codes to be used.

(4) The title of each recommended engineering practice to be followed.

(5) A description of safety, fire fighting, and pollution prevention equipment to be used on each floating component.

(6) A description of lighting to be used on floating hoses for night detection.

(q) *Data on fixed offshore components, including submerged SPM buoys.* (1) A description and preliminary design drawing for each fixed offshore component.

(2) The applicable design criteria, developed under part 149 of the chapter, to which each fixed offshore component will be designed and built.

(3) The design standards and codes to be used.

(4) The title of each recommended engineering practice to be followed.

(5) A description and the results of any design and evaluation studies performed by or for the applicant for any fixed offshore component and used in the development of the application.

(6) A description of the following equipment to be installed, where applicable:

(i) Navigational lighting.

(ii) Safety equipment.

(iii) Lifesaving equipment.

(iv) Fire fighting equipment.

(v) Pollution prevention and removal equipment.

(vi) Waste treatment equipment.

(7) A description and preliminary design drawing of the following:

(i) The oil or natural gas transfer equipment.

(ii) The piping system.

(iii) The control and instrumentation system.

(iv) Any associated equipment, including oil or natural gas-throughput-measuring equipment, leak-detection equipment, emergency-shutdown equipment, and the alarm system.

(8) The personnel capacity of each pumping platform complex.

(r) *Data on offshore pipelines.* (1) A description and preliminary design drawing of the marine pipeline, including--

(i) Size;

(ii) Throughput capacity;

(iii) Length;

(iv) Depth; and

(v) Protective devices.

(2) The design criteria to which the marine pipeline will be designed and built.

(3) The design standards and codes to be used.

(4) The title of each recommended engineering practice to be followed.

(5) A description of the metering system to be used to measure flow rate.

(6) Information concerning all submerged or buried pipelines that will be crossed by the offshore pipeline and how each crossing will be made.

(s) *Data on onshore components.* (1) A description of the location, capacity, and ownership of all planned and existing onshore pipelines, storage facilities, refineries, petrochemical facilities, and transshipment facilities, sufficient to demonstrate access to markets, that will be served by the deepwater port.

(a) A deepwater oil port serves a facility if the facility is within a PAD District for which information is required under paragraph (g)(5) of this section and is either served by connection to a common carrier pipeline or to a component or auxiliary of a common carrier pipeline. Crude oil gathering lines and lines wholly within a facility must be included in data on onshore components only if specifically required under paragraph (cc) of this section. Entry points and major connections between lines and with bulk purchasers must be included.

(b) A deepwater natural gas port serves a facility if it interconnects with a natural gas gathering system, an interstate or intrastate natural gas pipeline, natural gas storage facilities, a local distribution company or facilities that consume natural gas.

(2) A chart showing the location of all planned and existing--

(i) Onshore pipelines;

(ii) Storage facilities;

(iii) Refineries;

(iv) Petrochemical facilities; and

(v) Transshipment facilities to be served by the deepwater port.

(3) For deepwater oil ports, the throughput reports for the calendar year preceding the date of the application for the applicant and each of the applicant's affiliates engaged in producing, refining, or marketing oil along with a copy of each existing or proposed throughput agreement. Each throughput report must list the throughput of the following products:

(i) Crude oil.

(ii) Gasoline.

(iii) Jet aviation fuel.

(iv) Distillate fuel oils.

(v) Other refinery products.

(t) *Data on miscellaneous components.* (1) A description of the communications systems to be used in operation of the deepwater port.

(2) A description of the radar navigation system to be used in operation of the deepwater port to include--

(i) The type of radar;

(ii) The characteristics of the radar; and

(iii) The antenna location.

(3) A description of the method to be used for bunkering vessels using the deepwater port.

(4) Type, size, and number of vessels to be used in bunkering, mooring, and servicing the vessels using the deepwater port.

(5) A description and exact location of shore-based support facilities, if any, to be provided for vessels described in paragraph (t)(4) of this section.

(u) *Construction procedures.* A description of the method and procedures to be used in constructing each component of the deepwater port, including anticipated dates of completion for each specific component for each phase of construction.

(v) *Operations manual.* A draft of the operations manual for the proposed port containing the information under § 150.15 of this chapter. If the information required for the manual is not available, state why it is not and when it will be available.

(w) *Environmental impact analysis.* An analysis, as required by the National Environmental Policy Act, of the potential for impacts on the natural and human environments, including evidence of compliance with all applicable environmental laws. See appendix A to this part.

(x) *Aids to navigation.* (1) For each proposed aid to navigation, the proposed position of the aid described by latitude and longitude coordinates to the nearest second or tenth of a second as determined from the largest scale chart of the area in which the aid is to be located. Specify latitude and longitude to a level obtained by visual interpolation between the finest graduation of the latitude and longitude scales on the chart.

(2) For each proposed obstruction light and rotating lighted beacon--

(i) The color;

(ii) Characteristic;

(iii) Effective intensity (See § 149.521 of this chapter.);

(iv) Height above water; and

(v) General description of illumination apparatus.

(3) For each proposed fog signal on a structure, a general description of the apparatus.

(4) For each proposed buoy--

(i) The shape;

(ii) The color;

(iii) The number or letter;

(iv) The depth of water in which located; and

(v) A general description of any light or fog signal apparatus on the buoy, when applicable.

(5) For the proposed radar beacon (RACON), height above water and a general description of the apparatus.

(y) *Telecommunications equipment.* A description of each radio station or other communications facility to be used during construction and operation of the deepwater port, when applicable, and their proposed concept of operation.

Note to paragraph (y): When applying for a Federal Communication Commission (FCC) license for these communications facilities, you may submit the application directly to the FCC when sufficient technical information is available to meet the rules of that agency. The holding of the appropriate FCC licenses is a condition on a deepwater port license.

(z) *National Pollutant Discharge Elimination System (NPDES).* To the extent available, the information prescribed by, and submitted on, the NPDES Application for Permit to Discharge, Short Form D, for applying for a discharge permit from the Environmental Protection Agency (EPA). If complete information is not available by the time the Secretary of Transportation must either approve or deny the application for a designated application area under *33 U.S.C. 1504*(i)(1), the license for the deepwater port is conditioned upon the applicant receiving the required discharge permit from the EPA before the start of any discharge requiring such a permit.

(aa) *Placement of structures and the discharge of dredged or fill material.* The information prescribed on the application for a Department of Army permit for placement of structures and the discharge of dredged or fill material.

(bb) *Additional Federal authorizations.* All other applications for Federal authorizations not listed elsewhere in this subpart that are required for ownership, construction, and operation of a deepwater port.

(cc) *A statement that the information in the application is true.* This statement must be placed at the end of the application, sworn to before a notary public, and signed by a responsible official of the applicant.

§ 148.107 -- What additional information may be required?

(a) The Commandant (G-M), in coordination with the Administrator of the Maritime Administration, may require the applicant or the applicant's affiliates to file, as a supplement to the application, any analysis, explanation, or detailing of information in the application or any other information the Commandant (G-M) deems necessary.

(b) The applicant must identify the locations where the applicant and its affiliates have filed documents relating to deepwater ports that were prepared within 4 years of the date of the application for a license and that fall under one or more of the following categories:

(1) Prepared by or for, or submitted to, a Board of Directors or an executive, management, or planning committee.

(2) Concern the financing of construction or operation of a deepwater port, including throughput nominations and membership in and financing of any existing or proposed joint venture.

(3) Concern existing, proposed, or anticipated rates or joint rates.

(4) Determined by the Commandant (G-M) to be required to review and process the application.

(c) The application must identify the location of documents under paragraph (a) of this section. The Commandant (G-M) may require the documents to be consolidated into one or more locations.

(d) The Commandant (G-M) makes the documents under this section available for copying and inspection under 148.207. Any claim of privilege or immunity

with respect to any document required under this section must comply with 148.221 and be submitted to the Commandant (G-M).

(e) The Commandant (G-M) may require the applicant or the applicant's affiliates to make available for examination, under oath or for interview, persons having, or believed to have, necessary information. The Commandant (G-M), or its designee, conducts the interviews and examination.

(f) The Commandant (G-M) may set a deadline for receiving the information. If the applicant states that the required information is not yet available but will be at a later date, the Commandant (G-M) may specify a later deadline. If a requirement is not met by a deadline fixed under this paragraph, the Commandant (G-M) may determine whether compliance with the requirement is important to processing the application within the time prescribed by the Act. If the requirement is important to processing the application within the time limit set by the Act, the Secretary of Transportation may either not approve the application or may suspend it indefinitely. The deadline for the Secretary's review under the Act is extended for a period of time equal to the time of the suspension.

§ 148.108 -- What if a Federal or State agency or other interested party requests additional information?

(a) Any Federal or State agency or other interested person may recommend that the applicant provide information in addition to that required to be in the application.

(b) Recommendations must include a brief statement of why the information is needed.

(c) The Commandant (G-M) must receive the request within 30 days after publication of the notice of application in the *Federal Register*. The request is considered before any final determination is made.

§ 148.110 -- How do I prepare my application?

(a) Any person may confer with the Commandant (G-M) or the Administrator of the Maritime Administration concerning the preparation of an application.

(b) The applicant may incorporate, by clear and specific reference in the application, the following:

(1) Standard reference material that the applicant relied on and that is readily available to Federal and State agencies.

(2) Current information contained in previous applications or reports that the applicant has submitted to the application staff.

(3) Current information contained in a tariff, report, or other document previously filed for public record with the Surface Transportation Board, the Securities and Exchange Commission, the Federal Energy Regulatory Commission, or any other State or Federal agency, if--

(i) A certified true and complete copy of the document is attached to 5 of the 15 copies of the application required by 148.115(a);

(ii) The date of filing and the document number or other locator are on the cover of the document; and

(iii) Any verification or certification required for the original filing (other than from auditors or other independent persons) is dated no earlier than 30 days before the date of the application.

§ 148.115 -- How many copies of the application must I send and where must I send them?

Send copies of the application as follows:

(a) Fifteen copies, plus two copies for each adjacent coastal State, to the Commandant (G-M), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001.

(b) An additional copy of the application shall also be provided to the U.S. Coast Guard for its forwarding to the U.S. Army Corps of Engineers District Office having jurisdiction over the proposed port.

§ 148.125 -- What are the application fees?

(a) The applicant must submit to the Commandant (G-M) a nonrefundable application fee of $ 350,000 with each application for a license. If additional information is necessary to make an application complete, no additional application fee is required.

(b) The costs incurred by the Federal Government in processing an application will be charged to the application fee until it is exhausted. If the fee is exhausted and the Federal Government incurs further processing costs, the applicant will be invoiced the additional costs. These additional costs must be submitted to the Commandant (G-M) within sixty (60) days of when they are assessed.

(c) Application fees and additional costs assessed under this section must be made payable to the "United States Treasury."

Subpart C--Processing Applications

General

§ 148.200 -- What is the purpose of this subpart?

This subpart prescribes the requirements for processing an application for a deepwater port license, including the procedures for maintaining the docket, designating adjacent coastal States, holding informal and formal public hearings, and approving or denying an application.

§ 148.203 -- What is the role of MARAD in the processing of applications?

The Commandant (G-M) coordinates the processing of applications with the Maritime Administrator.

§ 148.205 -- How are documents related to the application maintained?

(a) The Commandant (G-M) maintains the docket for each application.

(b) The docket contains a copy of all documents filed or issued as part of application process.

(c) Recommendations submitted by Federal departments and agencies under *33 U.S.C. 1504*(e)(2) are docketed when they are received. Copies of the draft and final environmental impact statements prepared under *33 U.S.C. 1504*(f) are docketed when they are sent to the Environmental Protection Agency.

(d) For a document designated as protected from disclosure under *33 U.S.C. 1513*(b), the Commandant (G-M)--

(1) Prevents the document from being made available for public inspection;

(2) Prevents the information in the document from being disclosed, unless the Commandant (G-M) states that the disclosure is not inconsistent with *33 U.S.C. 1513*(b); and

(3) Keeps a record of all individuals who have a copy of the document.

§ 148.207 -- How and where can I view docketed documents?

(a) All material in a docket under 148.205 is available to the public for inspection and copying at Commandant (G-M) at the address under "Commandant (G-M)" in 148.5, except for--

(1) Contracts under *33 U.S.C. 1504*(c)(2)(B) for the construction or operation of a deepwater port; and

(2) Material designated under paragraph (b) of this section as a trade secret or commercial or financial information that is claimed to be privileged or confidential.

(b) A person submitting material that contains either a trade secret or commercial or financial information under paragraph (a)(2) of this section must designate those portions of the material that are privileged or confidential. Section 148.221 contains procedures for objecting to these claims.

§ 148.209 -- How is the application processed?

The Commandant (G-M) processes each application and publishes the notice of application under *33 U.S.C. 1504*(c) in the Federal Register. Upon publication of a notice of application, the Commandant (G-M) delivers copies of the application to the following:

(a) To each Federal agency with jurisdiction over any aspect of ownership, construction, or operation of deepwater ports. At a minimum, these must include the Environmental Protection Agency, the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, the Minerals Management Service, the State Historic Preservation Officer, and relevant State environmental and natural resources protection agencies.

(b) To each adjacent coastal State.

§ 148.211 -- What must I do if I need to change my application?

If, at any time before the Secretary approves or denies an application, the information in it changes or becomes incomplete, the applicant must promptly submit, to Commandant (G-M), 15 copies of the change or the additional information, plus 2 copies for each adjacent coastal State.

§ 148.213 -- How do I withdraw my application?

The applicant may withdraw its application at any time before the proceeding is terminated by delivering or mailing notice of withdrawal to the Commandant (G-M) for docketing.

§ 148.215 -- What if a port has plans for a deep draft channel and harbor?

If a port of a State that will be directly connected by pipeline with a proposed deepwater port has existing plans for a deep draft channel and harbor, a representative of the port may request a determination under *33 U.S.C. 1503*(d). The request must be sent, in writing, to Commandant (G-M) within 30 days after the date that the notice of application for the deepwater port is published in the Federal Register. The request must meet the following requirements:

(a) Be signed by the highest official of the port submitting the request.

(b) Contain a copy of the existing plans for the construction of a deep draft channel and harbor.

(c) Certify that the port has an active study by the Secretary of the Army for the construction of a deep draft channel and harbor or that the port has pending an application for a permit under *33 U.S.C. 403* for the construction.

(d) Provide any available documentation on--

(1) Initial costs (by phases, if development is staged) for the proposed onshore project, including dredging, ship terminal, and attendant facilities;

(2) Estimated annual operating expenses (by phases, if development is staged), including labor, for 30 years for all elements of the project;

(3) Estimated time of completion of all elements of the project;

(4) Estimated volume of ship traffic and volume and variety of the tonnage;

(5) Potential traffic congestion conditions in the port and the port's capability to control vessel traffic as a result of the proposed dredging project;

(6) Estimated economic benefits of the project, including--

(i) Economic contribution to the local and regional area;

(ii) Induced industrial development;

(iii) Increased employment; and

(iv) Increases in tax revenues; and

(7) Environmental and social impact of the project on elements of the local and regional community.

(e) State whether the port seeks a determination that the port best serves the national interest.

§ 148.217 -- How can a State be designated as an adjacent coastal State?

(a) Adjacent coastal States are named in the notice of application published in the Federal Register. However, a State not named as an adjacent coastal State in the notice may request to be designated as one if the environmental risks to it are equal to or greater than the risks posed to a State directly connected by pipeline to the proposed deepwater port.

(b) The request must--

(1) Be submitted in writing to the Commandant (G-M) within 14 days after the date of publication of the notice of application in the Federal Register;

(2) Be signed by the Governor of the State;

(3) List the facts and any available documentation or analyses concerning the risk of damage to the coastal environment of the State; and

(4) State why the State believes the risk of damage to its coastal environment is equal to or greater than the risk to a State connected by a pipeline to the proposed deepwater port.

(c) Upon receipt of a request, the Commandant (G-M) sends a copy of the State's request to the Administrator of the National Oceanic and Atmospheric Administration (NOAA) and asks for the Administrator's recommendations within a period of time that will allow the Commandant (G-M) 45 days from receipt of the request to determine the matter.

(d) If, after receiving NOAA's recommendations, the Commandant (G-M) determines that the State should be considered as an adjacent coastal State, the Commandant (G-M) designates it as an adjacent coastal State. If the Commandant (G-M) denies the request, the Commandant (G-M) notifies the Governor of the requesting State of the denial.

§ 148.221 -- What must I do to make a claim or object to a claim?

(a) Persons required to furnish information under this part may assert a claim of privilege or immunity as grounds for relief from the requirement. The claim must be submitted in writing to the Commandant (G-M).

(b) If the claim concerns a document protected from disclosure under *33 U.S.C. 1513*(b), the document must be placed in a sealed envelope with the name of the person claiming the protection, the applicant's name, the date or anticipated date of the application, and a brief statement of the basis of the claim. If a number of documents are involved, they must be grouped according to the nature of the claim and both the documents and their envelopes must be numbered using a self-explanatory numbering system.

(c) If the claim concerns the attorney-client privilege, the claim must identify the communication by date, type, persons making and receiving it, and general subject matter. If the required information is in a separable part of a communication, such as an attachment to a letter, the separate part must be identified the same way as the communication. The identification must be filed with the Commandant (G-M).

(d) A Federal or State agency, the applicant, an affiliate of the applicant, or other interested person may object to a claim. The objection must be in writing, must include a brief statement of the basis for the objection, and must identify the document to which the claim applies.

(e) Commandant (G-M) determines issues raised by claims filed under this section and may specify procedures to be used to resolve the issues, including procedures for the disclosure of information. Any person may submit recommendations to the Commandant (G-M) as to the procedures to be used.

(f) The presiding officer at any formal or informal hearing may allow claims or objections that could be filed under this section to be made and may issue a decision, including a decision on procedures for the disclosure of information, or refer the matter to the Commandant (G-M).

(g) The filing of a claim under this section, other than a claim under paragraph (b) of this section, stays the time for meeting any deadline for submitting information related to an issue raised in a claim or objection. However, the filing of a claim does not stay the periods for processing and reviewing applications, unless the Commandant (G-M) determines that compliance with the requirement is material to the processing of the application within the required time. If the Commandant (G-M) determines that the information is material, the Commandant (G-M) may suspend the processing of the application. The period of suspension is not counted toward the time limits in *33 U.S.C. 1503*(c)(6), 1504(d)(3), (e)(2), and (g), and 1508(b)(1).

Public Meetings

§ 148.222 -- When must public meetings be held?

(a) Before a license is issued, at least one public meeting under *33 U.S.C. 1504*(g) must be held in each adjacent coastal State.

(b) The Commandant (G-M), in coordination with the Administrator of the Maritime Administration, publishes a notice of public meetings in the Federal Register and mails or delivers a copy of the notice to the applicant, to each adjacent coastal State, and to all who request a copy, which request can be made any time after an application is filed.

(c) Anyone may attend the public meetings and provide oral or written information. The presiding officer may limit the time for providing oral information.

§ 148.227 -- How is a public meeting reported?

(a) After completion of a meeting, the presiding officer forwards a report on the hearing to the Commandant (G-M) for docketing.

(b) The report contains at least--

(1) An overview of the factual issues addressed;

(2) A transcript or recording of the meeting; and

(3) A copy of all material submitted to the presiding officer.

(c) During the hearing, the presiding officer announces what the report must contain.

Formal Hearings

§ 148.228 -- What if a formal hearing is necessary?

(a) After all public meetings under § 148.222 are concluded, the Commandant (G-M), in coordination with the Administrator of the Maritime Administration, considers whether there are one or more specific and material factual issues that may be resolved by a formal evidentiary hearing.

(b) If the Commandant (G-M), in coordination with the Administrator of the Maritime Administration, determines that one or more issues under paragraph (a) of this section exist, the Coast Guard holds at least one formal evidentiary hearing under *5 U.S.C. 554* in the District of Columbia.

(c) The Commandant (G-M) files a request for assignment of an administrative law judge with the ALJ Docketing Center. The Chief Administrative Law Judge designates an administrative law judge (ALJ) or other person to conduct the hearing.

(d) The recommended findings and the record developed in a hearing under paragraph (b) of this section are considered by the Secretary of Transportation in deciding whether to approve or deny a license.

§ 148.230 -- How is notice of a formal hearing given?

(a) The Commandant (G-M) publishes a notice of the hearing in the Federal Register and sends a notice of the hearing to the applicant, to each adjacent coastal State, and to each person who requests such a notice.

(b) The notice of the hearing includes the applicant's name, the name of the administrative law judge (ALJ) assigned to conduct the hearing, a list of the factual issues to be resolved, the address of the place where documents are to be filed, and the address where a copy of the rules of practice, procedure, and evidence to be used at the hearing is available.

§ 148.232 -- What are the rules for a formal hearing?

(a) The Commandant (G-M) determines the rules for each formal hearing. Unless otherwise specified in this part, the Commandant (G-M) applies the rules of practice, procedure, and evidence in part 20 of this chapter.

(b) The Commandant (G-M) sends a written copy of the procedure to the applicant, each person intervening in the proceedings, and each person who requests a copy.

§ 148.234 -- What are the limits of an administrative law judge's jurisdiction?

(a) An ALJ's jurisdiction begins upon assignment to a proceeding.

(b) An ALJ's jurisdiction ends after the recommended findings are filed with the Commandant (G-M) or immediately after the ALJ issues a notice of withdrawal from the proceeding.

§ 148.236 -- What authority does an administrative law judge have?

When assigned to a formal hearing, an ALJ may--

(a) Administer oaths and affirmations;

(b) Issue subpoenas;

(c) Issue rules of procedure for written evidence;

(d) Rule on offers of proof and receive evidence;

(e) Examine witnesses;

(f) Rule on motions of the parties;

(g) Suspend or bar an attorney from representing a person in the proceeding for unsuitable conduct;

(h) Exclude any person for disruptive behavior during the hearing;

(i) Set the hearing schedule;

(j) Certify questions to the Commandant (G-M);

(k) Proceed with a scheduled session of the hearing in the absence of a party who has failed to appear;

(l) Extend or shorten a non-statutorily imposed deadline under this subpart within the 240 day time limit for the completion of public hearings in *33 U.S.C. 1504*(g);

(m) Set deadlines not specified in this subpart or the Act; and

(n) Take any other action authorized by or consistent with this subpart, the Act, or *5 U.S.C. 551*-559.

§ 148.238 -- Who are the parties to a formal hearing?

The parties to a formal hearing are--

(a) The applicant;

(b) The Commandant (G-M); and

(c) Any person intervening in the proceedings.

§ 148.240 -- How does a State or a person intervene in a formal hearing?

(a) Any person or adjacent coastal State may intervene in a formal hearing.

(b) A person must file a petition of intervention within ten days after notice of the formal hearing is issued. The petition must--

(1) Be addressed to the ALJ Docketing Center;

(2) Identify the issues and the petitioner's interest in those issues; and

(3) Designate the name and address of a person who can be served if the petition is granted.

(c) An adjacent coastal State need only file a notice of intervention with the ALJ Docketing Center.

(d) The ALJ has the authority to limit the scope and period of intervention during the proceeding.

(e) If the ALJ denies a petition of intervention, the petitioner may file a notice of appeal with the ALJ Docketing Center within 7 days of the denial. A brief may be submitted with the notice of appeal. Parties who wish to file a brief in support of or against the notice of appeal may do so within 7 days of the filing of the notice.

(f) The Commandant (G-M) will rule on the appeal. The ALJ does not have to delay the proceedings for intervention appeals.

§ 148.242 -- How does a person who is not a party to a formal hearing present evidence at the hearing?

(a) For a person who is not a party to a formal hearing to present evidence at the hearing, the person must send a petition to present evidence to the ALJ Docketing Center before the beginning of the formal hearing. The petition must describe the evidence that the person will present and show its relevance to the issues listed in the notice of formal hearing.

(b) If a petition is granted, the ruling will specify which evidence is approved to be presented at the hearing.

§ 148.244 -- Who must represent the parties at a formal hearing?

(a) All organizations that are parties to the proceeding must be represented by an attorney. Individuals may represent themselves.

(b) Any attorney representing a party to the proceeding must file a notice of appearance according to § 20.301(b) of this chapter.

(c) Each attorney must be in good standing and licensed to practice before a court of the United States or the highest court of any State, territory, or possession of the United States.

§ 148.246 -- When is a document considered filed and where must it be filed?

(a) If a document to be filed is submitted by mail, it is considered filed on the date it is postmarked. If a document is submitted by hand delivery or electronically, it is considered filed on the date received by the clerk.

(b) File all documents and other materials related to an administrative proceeding at the U.S. Coast Guard Administrative Law Center, Attention: Hearing Docket Clerk, room 412, 40 South Gay Street, Baltimore, MD, 21201-4022.

§ 148.248 -- What happens when a document does not contain all necessary information?

Any document that does not satisfy the requirements in §§ 20.303 and 20.304 of this chapter will be returned to the person who submitted it with a statement of the reasons for denial.

§ 148.250 -- Who must be served before a document is filed?

Before a document may be filed by any party, it first must be served upon--

(a) All other parties; and

(b) The Commandant (G-M).

§ 148.252 -- What is the procedure for having a subpoena served?

(a) A party submit a request for a subpoena to the ALJ. The request must show the relevance and scope of the evidence sought.

(b) Requests should be submitted sufficiently in advance of the hearing so that exhibits and witnesses can be included in the lists required by 20.601 of this chapter but may be submitted later before the end of the hearing if good cause is shown for the late submission.

(c) A request for a subpoena must be submitted to the ALJ.

(d) A proposed subpoena, such as the form in *http://cgweb.comdt.uscg.mil/g-cj/subpoena.doc,* must be submitted with the request. If you don't use this form, the proposed subpoena must contain--

(1) The docket number of the proceedings;

(2) The captions "Department of Transportation," "Coast Guard," and "Licensing of deepwater port for coastal waters off (insert name of the coastal State closest to the proposed deepwater port and the docket number of the proceeding)";

(3) The name and the address of the office of the ALJ;

(4) For a subpoena to give testimony, a statement commanding the person to whom the subpoena is directed to attend the formal hearing and give testimony;

(5) For a subpoena to produce documentary evidence, a statement commanding the person to produce designated documents, books, papers, or other tangible things at a designated time or place; and

(6) An explanation of the procedure in 20.309(d) of this chapter and paragraph (f) of this section for quashing a subpoena.

(e) The procedure for serving a subpoena must follow rule 45 of the Federal Rules of Civil Procedure, unless the ALJ authorizes another procedure.

(f) The witness fees for a subpoenaed witness are the same as the fees for witnesses subpoenaed in U.S. District Courts. The person requesting the subpoena must pay these fees.

(g) When serving a subpoena, a party must include witness fees in the form of a check to the individual or organization for one day plus mileage or, in the case of a government-issued subpoena, a form SF-1157 for reimbursement for witness fees and mileage.

(h) Any person served with a subpoena has 10 days from the time of service to move to quash the subpoena.

(i) If a person does not comply with a subpoena, the ALJ decides whether judicial enforcement of the subpoena is necessary. If the ALJ decides it is, the Commandant (G-M) reviews this decision.

§ 148.254 -- How is a transcript of the hearing prepared?

(a) Under the supervision of the ALJ, the reporter prepares a verbatim transcript of the hearing. Nothing may be deleted from the transcript, unless ordered by the ALJ and noted in the transcript.

(b) After a formal hearing is completed, the ALJ certifies and forwards the record, including the transcript, to the clerk for docketing.

(c) At any time within the 20 days after the record is docketed, the ALJ may make corrections to the certified transcript. When corrections are filed, they are attached as appendices.

(d) Any motion to correct the record must be submitted within 10 days after the record is docketed.

§ 148.256 -- What happens at the conclusion of a formal hearing?

After closing the record of a formal hearing, the ALJ prepares a recommended finding on the issues that were the subject of the hearing. The ALJ submits that finding to the Commandant (G-M).

Approval or Denial of the Application

§ 148.276 -- When must the application be approved or denied?

Within 90 days after the close of the last public meeting or formal hearing, the Secretary of Transportation either approves or denies the application.

§ 148.277 -- How may Federal agencies and States participate in the application process?

(a) Under § 148.209, Federal agencies and adjacent coastal States are sent copies of the application. The agencies and States are encouraged to begin submitting their comments at that time.

(b) To be considered by the Secretary of Transportation, the Commandant (G-M), and the Administrator of the Maritime Administration, comments from Federal agencies and adjacent coastal States must reach the Commandant (G-M), at the latest, within 45 days after the completion of the last of the public meetings and formal hearings on an application.

(c) Comments should identify problems, if any, and suggest possible solutions.

§ 148.279 -- What are the criteria and considerations for approval of an application?

(a) The Secretary of Transportation approves an application if the Secretary determines that--

(1) The applicant is financially responsible and will carry insurance, or give other evidence of financial responsibility to meet its limit of liability established under subpart G of this part for removal costs and damages that could result from a discharge of oil or natural gas from the deepwater port or a vessel moored at the deepwater port;

(2) The applicant can and will comply with applicable laws, regulations, and license conditions;

(3) The construction and operation of the deepwater port will be--

(i) In the national interest;

(ii) Consistent with national security;

(iii) Consistent with other national policy goals and objectives, including energy sufficiency and environmental quality; and

(iv) Consistent with the Act, this subchapter, and other applicable laws, including those listed in appendix A to this part;

(4) The deepwater port will not unreasonably interfere with international navigation or other reasonable uses of the high seas, as defined by treaty, convention, or customary international law;

(5) The applicant has demonstrated that the deepwater port will be constructed and operated according to the environmental review criteria in appendix A to this part and will use the best available technology, so as to prevent or minimize adverse impact on the marine environment; and

(6) Any State connected to the deepwater port by pipeline--

(i) Is receiving a planning grant under section 305 of the Coastal Zone Management Act of 1972 *(16 U.S.C. 1454)*; or

(ii) Has developed, or is developing, an approved coastal zone management program under the Coastal Zone Management Act of 1972 *(16 U.S.C. 1451*-1465). This program must include the area that will be directly and primarily impacted by land and water development in the coastal zone resulting from the deepwater port.

(b) After making the determinations under paragraph (a) of this section, the Secretary considers the following:

(1) The information in the application and any other applications for licenses submitted under *33 U.S.C. 1504*(d)(3) for the same application area.

(2) The information from the public meetings and formal hearings held under this part.

(3) The final environmental review required by *33 U.S.C. 1504(f)* for the proposed deepwater port.

(4) The views on the adequacy of the application and its effects on programs within their respective jurisdictions by the Secretaries of the Army, State, and Defense.

(5) The comments of the Maritime Administration and other Federal departments and agencies that have a specific duty under the Act or expertise concerning, or jurisdiction over, any aspect of the ownership, construction, or operation of a deepwater port.

(6) The comments from the adjacent coastal States.

§ 148.281 -- What happens when more than one application for an oil deepwater port is submitted for the same application area?

(a) When more than one application is submitted for the same application area under *33 U.S.C. 1504*(d), the Secretary of Transportation approves only one application. Except as provided in paragraph (b) of this section, applicants receive priority in the following order:

(1) An adjacent coastal State (or combination of States), political subdivision of the State, or an agency or instrumentality, including a wholly owned corporation of the State.

(2) A person--

(i) Not engaged in producing, refining, or marketing oil;

(ii) Not an affiliate of a person engaged in producing, refining, or marketing oil ; or

(iii) Not an affiliate of an affiliate of a person engaged in producing, refining, or marketing oil.

(3) Any other applicant.

(b) The Secretary of Transportation may also approve one of the proposed deepwater ports if the Secretary determines that that port will best serve the national interest. In making this determination, the Secretary considers--

(1) The degree to which each deepwater port will affect the environment, as determined under the review criteria in appendix A to this part;

(2) The differences between the anticipated completion dates of the deepwater ports; and

(3) The differences in costs for construction and operation of the ports that would be passed on to consumers of oil.

(c) Sections 148.281(a) and (b) shall not apply to deepwater ports for natural gas pursuant to *33 U.S.C. 1504(i)(4)*.

§ 148.283 -- When is the application process stopped before the application is approved or denied?

The Commandant (G-M), in coordination with the Administrator of the Maritime Administration, stops the application process before the application is approved or denied if--

(a) All applications are withdrawn before the Secretary of Transportation approves one of them; or

(b) There is only one application, it is incomplete, and the applicant does not respond to a request by the Commandant (G-M) for further information.

Subpart D-Licenses

§ 148.300 -- What does this subpart concern?

This subpart concerns the license for a deepwater port and the procedures for transferring, amending, suspending, reinstating, revoking, and enforcing a license.

§ 148.305 -- What is included in a deepwater port license?

A deepwater port license contains the following:

(a) The name, and the number or other identification, of the port.

(b) The name of the owner and operator of the port.

(c) The conditions prescribed under *33 U.S.C. 1503*(e) for ownership, construction, and operation of the deepwater port.

(d) A statement that--

(1) There will be no substantial change from the plans, operational systems, methods, procedures, and safeguards in the license, as approved, without the written approval, in advance, of the Secretary of Transportation; and

(2) The owner will comply with any condition that the Secretary may prescribe under the Act or this subchapter.

§ 148.307 -- Who may consult with the Commandant G-M and the Administrator of the Maritime Administration on developing the conditions of a license?

Federal agencies, the adjacent coastal States, and the "applicant" for a license for a deepwater port may consult with the Commandant (G-M) or the Administrator of the Maritime Administration on the conditions of the license being developed under *33 U.S.C. 1503*(e).

§ 148.310 -- How long does a license last?

Each license remains in effect indefinitely unless--

(a) It is suspended or revoked by the Secretary of Transportation; or

(b) It is surrendered by the owner.

§ 148.315 -- How is a license amended, transferred, or reinstated?

(a) The Secretary of Transportation may amend, transfer, or reinstate a license if the Secretary finds that the amendment, transfer, or reinstatement, is consistent with the requirements of the Act and this subchapter.

(b) The owner must submit a request for an amendment, transfer, or reinstatement to the Commandant (G-M).

§ 148.320 -- How is a license enforced, suspended, or revoked?

The Secretary of Transportation may enforce, suspend, or revoke a license under *33 U.S.C. 1507*(c).

Subpart E--Site Evaluation and Pre-Construction Testing

§ 148.400 -- What does this subpart do?

(a) This subpart prescribes requirements under *33 U.S.C. 1504*(b) for the activities that are involved in site evaluation and pre-construction testing at potential locations for deepwater ports and that may--

(1) Adversely affect the environment;

(2) Interfere with authorized uses of the Outer Continental Shelf; or

(3) Pose a threat to human health and welfare.

(b) For the purpose of this subpart, "site evaluation and pre-construction testing" means studies performed at potential deepwater port locations, including--

(1) Preliminary studies to determine the feasibility of a site;

(2) Detailed studies of the topographic and geologic structure of the ocean bottom to determine its ability to support offshore structures and other equipment; and

(3) Studies done for the preparation of the environmental analysis required under 148.105(w).

§ 148.405 -- What are the procedures for notifying the Commandant (G-M) of proposed site evaluation and pre-construction testing?

(a) Any person who wants to conduct site evaluation and pre-construction testing at a potential site for a deepwater port must submit a written notice to the Commandant (G-M) at least 30 days before the beginning of the evaluation or testing. The Commandant (G-M) advises and coordinates with appropriate Federal agencies and the States concerning activities covered by this subpart.

(b) The written notice must include the following:

(1) The names of all parties participating in the site evaluation and pre-construction testing.

(2) The type of activities and the way they will be conducted.

(3) Charts showing where the activities will be conducted and the locations of all offshore structures, including pipelines and cables, in or near the proposed area.

(4) The specific purpose for the activities.

(5) The dates when the activities will begin and end.

(6) The available data on the environmental consequences of the activities.

(7) A preliminary report, based on existing data, of the historic and archeological significance of the area where the proposed activities are to take place. A report of each contact made with any appropriate State liaison officer for historic preservation must be included.

(8) Additional information, if necessary, in individual cases.

(c) For the following activities, the notice need have only the information required in paragraphs (b)(1), (b)(2), and (b)(5) of this section, as well as a general indication of the proposed location and purpose of the activities:

(1) Gravity and magnetometric measurements.

(2) Bottom and sub-bottom acoustic profiling without the use of explosives.

(3) Sediment sampling of a limited nature using either core or grab samplers, if geological profiles indicate no discontinuities that may have archeological significance.

(4) Water and biotic sampling, if the sampling does not adversely affect shellfish beds, marine mammals, or an endangered species, or if the sampling is permitted by another Federal agency.

(5) Meteorological measurements, including the setting of instruments.

(6) Hydrographic and oceanographic measurements, including the setting of instruments.

(7) Small diameter core sampling to determine foundation conditions.

(d) A separate written notice is required for each site.

§ 148.410 -- What are the conditions for conducting site evaluation and pre-construction testing?

(a) No persons may conduct site evaluation and pre-construction testing unless they comply with this subpart and other applicable laws.

(b) Measures must be taken to prevent or minimize the effect of activities under § 148.400(a).

§ 148.415 -- When conducting site evaluation and pre-construction testing, what must be reported?

(a) When conducting site evaluation or pre-construction testing, the following must be immediately reported by any means to the Commandant (G-M):

(1) After an analysis of data gathered by a person, any evidence of objects of cultural, historical, or archeological significance that are located at the proposed site of a deepwater port.

(2) Any adverse effect on the environment that occurs as a consequence of conducting the site evaluation or pre-construction testing.

(3) Any interference with authorized uses of the Outer Continental Shelf that occurs as a consequence of conducting the site evaluation or pre-construction testing.

(4) Any threat to human health and welfare that occurs as a consequence of conducting the site evaluation or pre-construction testing.

(5) Any adverse effect on an object of cultural, historical, or archeological significance that occurs as a consequence of conducting the site evaluation or pre-construction testing.

(b) Within 120 days after the site evaluation or pre-construction testing, a final written report must be submitted to the Commandant (G-M) that contains--

(1) A narrative description of the activities performed;

(2) A chart, map, or plat of the area where the activities occurred;

(3) The dates that the activities were performed;

(4) Information on the adverse effects of items reported under paragraph (a) of this section;

(5) Data on the historical or archeological significance of the area where the activities were conducted, including a report by an underwater archeologist, if the physical data indicate the need for such an expert; and

(6) Any additional information required by the Commandant (G-M) on a case-by-case basis.

§ 148.420 -- When may the Commandant (G-M) suspend or prohibit site evaluation or pre-construction testing?

(a) The Commandant (G-M) may order, either in writing or orally with written confirmation, the prohibition or immediate suspension of any activity related to site evaluation or pre-construction testing, when the activity threatens harm to--

(1) Human life;

(2) Biota;

(3) Property;

(4) Cultural resources;

(5) Any valuable mineral deposits; or

(6) The environment.

(b) The Commandant (G-M) consults with the applicant on measures to remove the cause for suspension.

(c) The Commandant (G-M) may lift a suspension after the applicant assures the Commandant (G-M) that the activity will no longer cause the threat on which the suspension was based.

Subpart F--Exemption from Requirements in this Subchapter

§ 148.500 -- What does this subpart do?

This subpart provides procedures for requesting an exemption from a requirement in this subchapter.

§ 148.505 -- How do I apply for an exemption?

(a) Any person required to comply with a requirement in this subchapter may submit a petition for exemption from that requirement.

(b) The petition must be submitted in writing to the Commandant (G-M).

(c) The Commandant (G-M) may require the petition to provide an alternative to the requirement.

§ 148.510 -- What happens when a petition for exemption involves the interests of an adjacent coastal State?

If the petition for exemption concerns an adjacent coastal State, the Commandant (G-M) forwards the petition to the Governor of the State for the Governor's recommendation.

§ 148.515 -- When is an exemption allowed?

The Commandant (G-M) allows an exemption if the Commandant (G-M) determines that--

(a) Compliance with the requirement would be contrary to public interest;

(b) Compliance with the requirement would not enhance safety or the health of the environment;

(c) Compliance with the requirement is not practical because of local conditions or because the materials or personnel needed for compliance are unavailable;

(d) National defense or national economy justify a departure from the rules; or

(e) The alternative, if any, proposed in the petition would--

(1) Ensure comparable or greater safety, protection of the environment, and quality of construction, maintenance, and operation of the deepwater port; and

(2) Be consistent with recognized principles of international law.

Subpart G--Limit of Liability for Oil Ports

§ 148.600 -- What is the purpose of this subpart?

This subpart concerns the establishment of the limit of liability under section 1004 of the Oil Pollution Act of 1990 *(33 U.S.C. 2704)* for deepwater oil ports

§ 148.605 -- How is the limit of liability determined?

(a) The Secretary of Transportation establishes the limit of liability for deepwater oil ports according to *33 U.S.C. 2704*(d)(2.

(b) Requests to adjust the limit of liability for a deepwater oil port must be submitted to Commandant (G-M). Adjustments are established by a rulemaking based on the request of the applicant. This may be done concurrently with the processing of the deepwater port license application.

§ 148.610 -- What is the limit of liability for LOOP?

The limit of liability for the Louisiana Offshore Oil Port (LOOP) is $ 62,000,000.

Subpart H.- -Access to deepwater port facilities

§ 148.700 -- What is the purpose of this subpart?

This subpart concerns access by third parties to deepwater port facilities and services under *33 U.S.C. 1507*

§ 148.705 - How is access to deepwater ports for oil determined?

Any person shall have access to a deepwater port used for the transportation, storage or handling of oil on a nondiscriminatory basis and such deepwater port shall be operated as a common carrier for all oil delivered to the deepwater port except that a licensee shall not be engaged in discrimination to the extent it satisfies the criteria set forth in *33 U.S.C. 1507(b)(1)* and *(2)*.

§ 148.710 - How is access to deepwater ports for natural gas determined?

A licensee of a deepwater port for natural gas, or its affiliate, shall have the right to exclusive use of all or any part of the facilities and services of such deepwater port as the licensee shall reasonably determine as necessary to conduct licensee's business and the licensee shall not be subject to claims of discrimination for such use. A licensee may make available to others any capacity not utilized by the licensee, such capacity to be made available upon reasonable terms and conditions if such use does not otherwise interfere in any way with the acceptance, transport, storage, regasification, or conveyance of natural gas produced, processed, marketed or otherwise obtained by agreement by such licensee or its affiliates.

Appendix A to Part 148--Environmental Review Criteria for Deepwater Ports

Authority

(a) Under section 6 of the Act *(33 U.S.C. 1505)*, the Commandant is required to establish environmental review criteria for use in evaluating a proposed deepwater port. In developing these criteria, the Coast Guard consulted with the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the Maritime Administration, and other Federal agencies having jurisdiction over any aspect of the construction or operation of a deepwater port. Both the construction and operation phases of a deepwater port will be evaluated by the following criteria:

(1) The effect on the marine environment.

(2) The effect on oceanographic currents and wave patterns.

(3) The effect on alternate uses (e.g., scientific study, fishing, and exploitation of other living and nonliving resources) of the oceans and navigable waters.

(4) The potential dangers to a deepwater port from waves, winds, weather, and geological conditions and the steps that can be taken to protect against or minimize these dangers.

(5) The potential for risks to the marine and terrestrial environments under normal operating scenarios and a range of spill or failure scenarios.

(6) The effects of land-based developments related to deepwater port development.

(7) The effect on human health and welfare.

(8) Other considerations deemed necessary by the Commandant (G-M).

(b) The Commandant (G-M) periodically reviews and revises, as necessary, these criteria. These reviews and revisions are performed in the same way as the originally developed criteria. The criteria established are consistent with the National Environmental Policy Act *(42 U.S.C. 4321*-4347) and were developed concurrently with the regulations under *33 U.S.C. 1504*(a) for deepwater ports.

Purpose

(a) The Secretary of Transportation may issue a license to construct a deepwater port under the Act if, among other things, the Secretary determines--

(1) That the construction and operation of the deepwater port will be in the national interest and consistent with national security and other national policy goals and objectives, including energy sufficiency, environmental quality, and protection from the threat of terrorist attack and other subversive activity against persons and property on the port and the vessels and crews calling at the port.

(2) That, under the environmental review criteria in this appendix, the applicant has demonstrated that the deepwater port will be constructed and operated using the best available technology to prevent or minimize adverse impact on the environment *(33 U.S.C. 1503*(c)(3) and 1504).

(b) Under *33 U.S.C. 1504*(f), these criteria must be considered in the preparation of a single, detailed environmental review for all timely applications covering a single application area. Additionally, with respect to an application for a deepwater port for oil, *33 U.S.C. 1504*(i)(3) specifies that, if more than one application is submitted for an "application area" (as defined in *33 U.S.C. 1504*(d)(2)), the criteria must be used, among other factors, in determining whether any one proposed deepwater port clearly best serves the national interest.

Environmental Review Criteria

(a) The environmental review of a proposed deepwater port consists of the following two parts:

(1) The assessment of the probable negative and positive environmental impacts that will result from construction and operation of the port. (See "Part I of Environmental Review: Environmental Impacts in this appendix.) This is also discussed in the Council on Environmental Quality's regulations at 40 CFR parts 1500 through 1508.

(2) The effort made by the applicant to prevent or minimize adverse environmental effects. (See "Part II of Environmental Review: Environmental Mitigation" in this appendix.) This effort will be closely considered in the review.

(b) The overall intent of the review is to obtain a comprehensive evaluation of the significance of both the separate and cumulative environmental impacts, adverse and beneficial, of the proposed deepwater port project. In addition, the overall intent of the review is to determine whether or not the applicant has demonstrated that the deepwater port will be constructed and operated using the best available technology, thereby preventing or minimizing the adverse impact on the marine environment.

Part I of Environmental Review: Environmental Impacts

(a) The proposed deepwater port will be evaluated to assess the extent and importance of its probable negative and positive environmental impacts. The information needed for this evaluation will be provided by the environmental review conducted pursuant to *33 U.S.C. 1504(f)* and other necessary sources. This review will include comparisons with reasonable alternative actions, such as the no-action case, alternative schemes for transporting oil or natural gas, alternative sites, designs, and systems, and other deepwater ports. This phase of the environmental review will also include consideration of the environmental review criteria described in *33 U.S.C. 1505(a)*.

(b) The evaluation should provide a clear picture of the relative net environmental impact of the proposed project. It should identify the procedures that might be taken and the technology applied to prevent or minimize probable adverse effects.

Part II of Environmental Review: Environmental Mitigation

Under this part, the proposed project will be appraised for the effort made to prevent or minimize the probable adverse impacts on the environment. This appraisal is primarily concerned with the project as it is proposed. The alternatives are relevant only insofar as they may represent an array of possible actions that the proposal will be judged against. The review will consider the degree of adherence to the following guidelines:

(a) *Siting.*

(1) A proposed deepwater port should be sited in an optimum location to prevent or minimize detrimental environmental effects. For example, the deepwater port and all its components (including receiving terminals, inline transportation facilities and stations, ancillary and service facilities, and pipelines) should occupy the minimum space necessary for safe and efficient operation and should be located, to the extent possible, in areas where permanent alteration of wetlands is not necessary. Buffer zones should be provided to separate onshore facilities from incompatible adjacent land uses.

(2) The deepwater port facility and its offshore components should be located in areas that have stable sea-bottom characteristics; and its onshore components should be located in areas where a stable foundation can be developed and flood protection levees, if appropriate, can be constructed.

(3) The deepwater port facility should be located in an area where existing offshore structures and activities will not interfere with its safe operation, and where the facility or navigation to and from that facility, will not interfere with the safe operation of existing offshore structures. Water depths and currents in and around the deepwater port and its approaches should pose no undue hazard to safe navigation. Extensive dredging or removal of natural obstacles, such as reefs, should be avoided. The siting procedure should select an area where projected weather, wave conditions, and seismic activity minimize the probability that damage will occur to the deepwater port, tankers, pipeline, and component shore-side facilities from storms, earthquakes, or other natural hazards.

(4) Sites should maximize the permitted use of existing work areas and facilities and access routes for construction and operations activities. Where temporary work areas, facilities, or access routes must be used, they should be, to the fullest extent possible, designed and constructed in such a manner as to permit restoration to the pre-construction environmental conditions or better.

(5) The deepwater port facility, navigational fairways, and pipelines should be sited where the interactions of requirements of the facility and the natural environment are optimized to prevent adverse impacts or to

produce acceptably low adverse effects. Key factors in assessments should include, but are not be limited to, projected winds, waves, current, spill size, spill frequency, and cleanup capability; shoreline, estuarine, and bay sensitivity; biological resources, damage potential and recovery rate; facility design; and project economics.

(6) The deepwater port, pipelines, and attendant facilities should be located as far as practicable from the vicinity of critical habitats for biota, including, but not limited to, commercial and sports fisheries and threatened and endangered species.

(7) Sites should reflect negligible displacement of existing or potentially important uses, such as the following:

(i) Fisheries.

(ii) Recreation.

(iii) Mining.

(iv) Oil and gas production.

(v) Transportation.

(8) Siting should favor areas already allocated for similar use and the implications of density of these uses.

(i) Port facilities--existing tanker and barge traffic--existing ports, which can be used for service vessels.

(ii) Pipelines--use of existing corridors.

(iii) Secondary facilities--use of (or expansion of) existing storage, refinery, and other support facilities.

(iv) Construction facilities--use of existing equipment and personnel staging yards.

(9) The deepwater port, pipelines, and other offshore facilities should be sited so that they will not permanently interfere with the natural littoral process and will not significantly alter any tidal pass or other part of the physical environment that is important to natural currents and wave patterns.

(10) Pipelines, or other deepwater port components or facilities requiring dredging, should not be located where sediments with high levels of heavy metals, biocides, oil, or other pollutants or hazardous materials exist.

(b) *Design, construction, and operation.* Selection of design and procedures for construction and operation of a deepwater port must reflect the use of the best available technology, as applicable to oil or natural gas transfer activities. The following are some examples:

(1) All oil or natural gas transfer, transportation, and storage facilities and their systems and equipment should include appropriate safeguards and backup systems or should be operated under procedures both to minimize the possibility of pollution incidents resulting from personnel and equipment failures, natural calamities, and casualties, such as tanker collisions or groundings, and to minimize the adverse effects of those

pollution incidents that do occur. These facilities, systems, and equipment should be designed to permit safe operation, including appropriate safety margins, under maximum operating loads and the most adverse operating conditions.

(2) All facilities should be provided with a safe, environmentally sound method for the collection, storage, and disposal of solid and liquid wastes generated by these facilities. When prescribed by law or regulation, the deepwater port may be required to be fitted with additional facilities for the collection and treatment of ship-generated liquid and solid wastes, such as oily bilge and oily ballast water, tank cleaning residues, sludge wastes, and sewage and garbage, or any discharges from processing equipment.

(3) The proposed project should be designed, constructed and operated so it will not permanently interfere with natural littoral processes or other significant aspects of currents and wave patterns. Additionally, harmful erosion or accretion, both onshore and offshore, should be prevented. Groundwater drawdown or saltwater intrusion should not be permitted. Moreover, the mixing of salt, brackish, and fresh waters should be minimized. Designs should not include factors that will disrupt natural sheet flow, water flow, and drainage patterns or systems.

(4) The proposed project should not interfere with biotic populations. Potential effects on breeding habitats or migration routes should receive particular attention.

(5) The proposed project should be designed, constructed, and operated to make maximum, feasible use of already existing local facilities, such as roads, pipelines, docking facilities and communications facilities.

(6) Disposal of spoil and refuse material should be effected only at disposal sites specifically selected and approved by competent authorities. Whenever and wherever possible, the proposal should provide for resource recovery, reclamation of affected areas, or enhancing uses of spoil and waste.

(7) Personnel trained in pollutant discharge prevention and mitigation should be present at critical points during the oil transfer process.

(c) *Land Use and Coastal Zone Management.* A deepwater port should not conflict with existing or planned land use, including management of the coastal region. A measure of whether or not conflict exists will be made by the following means:

(1) The proposed project should adhere closely to approved master plans or other plans of competent local or State authorities in designated adjacent coastal States or in other States where significant effects are likely to occur. A minimum of special exceptions or zoning variances should be required. Non-conforming uses should not be prolonged where reasonable alternatives are available.

(2) The proposed project should conform with approved or planned coastal zone management programs of the relevant adjacent coastal States.

(3) The proposed use of floodplains should not--

(i) Entail loss of wetlands;

(ii) Pose an undue risk of exposure of that use to flood damage;

(iii) Increase the potential need for Federal expenditures for flood protection or flood disaster relief; and

(iv) Decrease the unique public value of the floodplain as an environmental resource or provide an incentive for other uses of the floodplains that have similar ultimate results.

(4) The use of or effect on wetlands should be considered in the following manner:

(i) Uses that would permanently alter or adversely affect wetlands should be avoided; or

(ii) Positive action must be taken to minimize adverse effects on wetlands.

Environmental Statutes

(a) In constructing and operating a deepwater port, the port must comply with all applicable environmental statutes, including the National Environmental Policy Act *42 U.S.C. 4321 et seq.*), the Clean Air Act *(42 U.S.C. 7401 et seq.*), the Federal Water Pollution Control Act *(33 U.S.C. 1251 et seq.*), the Marine Protection, Research and Sanctuaries Act *(33 U.S.C. 1401 et seq.*), the Coastal Zone Management Act of 1972 *(16 U.S.C. 1451 et seq.*), the Endangered Species Act of 1973 *(16 U.S.C. 1531 et seq.*), the Marine Mammal Protection Act of 1972 *(16 U.S.C. 1361 et seq.*), the National Historic Preservation Act of 1966 *(16 U.S.C. 661 et seq.*), the Comprehensive Environmental Response, Compensation, and Liabilities Act.

(b) In addition, the port must comply with section 5 of the Act on compliance with the environmental analysis *(33 U.S.C. 1504*(f)) and section 6 on the effect of the port on the marine environment *(33 U.S.C. 1505*(a)).

PART 149--DEEPWATER PORTS: DESIGN, CONSTRUCTION, AND EQUIPMENT

Subpart A--General

Sec.

Subpart B--Pollution Prevention Equipment

Authority: *33 U.S.C. 1504;* 49 CFR 1.46.

Subpart A--General

§ 149.1 -- What does this part do?

This subpart provides requirements for the design and construction of deepwater ports. It also provides the requirements for equipment for deepwater ports.

§ 149.5 -- Where can I find the definition of a term used in this part?

(a) See 148.5 for the definition of certain terms used in this part.

(b) See 140.25 of this chapter for the definition of the following terms: "accommodation module," "major conversion," "sleeping spaces," and "temporary accommodation module."

§ 149.10 -- What is the Coast Guard publication for equipment type approval, and where can I obtain it?

(a) Where equipment in this subchapter must be of an approved type, the equipment must be specifically approved by the Commandant (G-M). A list of approved equipment, including all of the approval series, is available at *http://www.uscg.mil/hq/g-m/mse/equiplistexpl.htm.* The last printed version of the list, current only up through 1994, is published in COMDTINST M16714.3 (Series), Equipment List, and is available from Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250, or by phone at 202-512-1800.

(b) Specifications for certain items required to be of an approved type are in 46 CFR parts 160 through 164.

Subpart B--Pollution Prevention Equipment

§ 149.100 -- What does this subpart do?

This subpart provides requirements for pollution equipment on manned deepwater ports.

§ 149.103 -- What are the requirements for discharge containment and removal material and equipment?

(a) Each deepwater port for oil must have oil discharge containment and removal material and equipment that, to the extent best available technology allows, can contain and remove an oil discharge of at least 10,000 U.S. gallons. The material and equipment must be stored on the pumping platform or on a service craft operating at the deepwater port.

(b) Each deepwater port which conducts oil transfer operations must have readily accessible additional containment and removal material and equipment

for containing and removing oil discharges larger than those specified in paragraph (a) of this section. For purposes of this paragraph, access may be by direct ownership, joint ownership, cooperative venture, or contractual agreement.

(c) The type of discharge containment and removal material and equipment that best meets the requirements of paragraphs (a) and (b) of this section must be determined on the basis of--

(1) The oil handling rates of the deepwater port;

(2) The volume of oil susceptible to being spilled;

(3) The frequency of oil transfer operations at the deepwater port;

(4) The prevailing wind and sea state condition at the deepwater port;

(5) The age, capability, and arrangement of, and the licensee's experience with, the oil transfer system equipment at the deepwater port; and

(6) The expected availability and frequency of use of the discharge containment material and equipment and whether they are shared.

§ 149.105 -- What are the requirements for the overflow and relief valves?

(a) Each oil transfer system (OTS) must include a relief valve that, when activated, prevents pressure on any component of the OTS from exceeding its maximum rated pressure.

(b) The oil transfer system overflow or relief valve must not allow an oil discharge into the sea.

§ 149.110 -- What are the requirements for pipeline end manifold shutoff valves?

Each pipeline end manifold must have a shutoff valve capable of operating both manually and from the pumping platform complex.

§ 149.115 -- What are the requirements for blank flange and shutoff valves?

Each floating hose string must have a blank flange and a shutoff valve at the vessel's manifold end.

§ 149.120 -- What are the requirements for manually operated shutoff valves?

Each oil transfer line passing through an SPM buoy must have a manual shutoff valve on the buoy.

§ 149.125 -- What are the requirements for the malfunction detection system?

Each oil system between a pumping platform complex and the shore must have a system that can detect and locate all leaks and other malfunctions.

§ 149.130 -- What are the requirements for the oil transfer system alarm?

(a) Each oil transfer system must have an alarm to signal a malfunction or failure in the system.

(b) The alarm must be--

(1) Capable of being activated at the pumping platform complex;

(2) A signal audible in all areas of the pumping platform complex, except in areas under paragraph (b)(3) of this section;

(3) A high intensity flashing light in areas of high ambient noise levels where hearing protection is required under 150.600 of this chapter; and

(c) Distinguishable from the general alarm.

§ 149.135 -- What should be marked on the oil transfer system alarm switch?

Each switch for activating an alarm, and each audio or visual device for signaling an alarm, under 149.130 must be identified by the words "OIL TRANSFER ALARM" in red letters at least 1-inch (2.5 centimeters) high on a yellow background

§ 149.140 -- What communications equipment must be on a deepwater port?

Each deepwater port that is manned must have the following communications equipment:

(a) A means of continuous two-way voice communication among the deepwater port and the tankers, support vessels, and other vessels operating at the port. The means must be usable and effective in all phases of a transfer and in all conditions of weather at the port.

(b) A means to effectively indicate the need to use the communication system required by paragraph (a) of this section, even if the means is the communication system itself.

(c) For each portable means of communication used to meet the requirements of this section, equipment that is--

(1) Certified under 46 CFR 111.105-11 to be operated in Group D, Class 1, Division 1 Atmosphere; and

(2) Permanently marked with the certification required in paragraph (c)(1) of this section. As an alternative to this marking requirement, a document certifying that the portable radio devices in use are in compliance with this section may be kept at the deepwater port.

§ 149.145 -- What are the requirements for curbs, gutters, drains, and reservoirs?

Each pumping platform complex must have enough curbs, gutters, drains, and reservoirs to collect, in the reservoirs, all oil and contaminants not authorized for discharge into the ocean according to the port's National Pollution Discharge Elimination System (NPDES) permit.

§ 149.150 -- What are the requirements for the receipt of oil residues from vessels?

(a) Each deepwater port that receives oil from vessels must have a means for receiving oil residues from those vessels.

(b) A deepwater port is not required to receive oil residues from vessels that are engaged in a vessel-to-vessel transfer.

Subpart C--Lifesaving Equipment

§ 149.300 -- What does this subpart do?

This subpart provides requirements for lifesaving equipment on manned deepwater ports.

§ 149.305 -- What are the requirements for lifesaving equipment?

(a) Each deepwater port on which at least one person occupies an accommodation space for more than 30 consecutive days in any successive 12-month period must comply with the requirements for lifesaving equipment in 143.810 through 143.885 of this chapter.

Note: Sections 143.810 through 143.885 referred to in this paragraph are as proposed in *64 FR 68476-68480,* December 7, 1999.

(b) Each deepwater port not under paragraph (a) of this section must comply with the requirements for lifesaving equipment in 143.910 through 143.925 of this chapter.

Note: Sections 143.910 through 143.925 referred to in this paragraph are as proposed in *64 FR 68480,* December 7, 1999.

§ 149.310 -- What are the requirements for lifesaving equipment that is not required by this subchapter?

Each item of lifesaving equipment on a pumping platform complex that is not required by this subchapter must be approved by the Commandant (G-M).

Subpart D--Fire-Fighting and Fire-Protection Equipment

§ 149.400 -- What does this subpart apply to?

This subpart applies to all manned deepwater ports; except that, for manned deepwater ports in existence on [the effective date of the final rule], this subpart applies on [date 2 years after effective date of the final rule].

§ 149.405 -- What are the general requirements for fire-fighting and fire-protection equipment?

(a) Each deepwater port must comply with the requirements for fire-fighting and fire-protection equipment in 143.1010 through 143.1050 and 143.1060 through 143.1063 of this chapter.

Note: Sections 143.1010 through 143.1050 and 143.1060 through 143.1063 referred to in this paragraph are as proposed in *64 FR 68481-68485,* December 7, 1999.

(b) A fire detection and alarm system on a deepwater port on [the effective date of the final rule.] need not meet the requirements in 143.1050 of this chapter until the system needs replacing.

Note: Section 143.1050 referred to in this paragraph is as proposed in *64 FR 68484,* December 7, 1999.

149.410 -- What are the requirements for a fixed fire main system?

Each pumping platform complex must have a fixed fire main system.

§ 149.415 -- What are the requirements for fire pumps?

(a) Each pumping platform complex must have at least two independently driven fire pumps. Each pump must be able to simultaneously deliver two streams of water at a pitot tube pressure of at least 75 p.s.i. measured at each fire hose nozzle.

(b) Each fire pump must have--

(1) A relief valve on its discharge side that is set to relieve at 25 p.s.i. in excess of the pressure necessary to meet the requirement in paragraph (a) of this section;

(2) A pressure gauge on its discharge side; and

(3) Its own sea connection.

(c) Fire pumps may only be connected to the fire main system.

(d) The fire pumps required by paragraph (a) of this section shall be located in separate spaces and the arrangement of pumps, sea connections and sources of power shall be such as to ensure that a fire in any one space will not put all of the fire pumps out of service.

§ 149.420 -- What are the requirements for fire hydrants?

(a) Except for machinery spaces, each part of the pumping platform complex that is accessible to a person must have enough fire hydrants so that it can be reached by at least two hose streams from separate hydrants. At least one hose stream must be from a single length of hose.

(b) Each pumping platform complex must have enough fire hydrants so that each machinery space can be reached by at least two hose streams from separate hydrants. At least one hose stream must be from a single length of hose.

(c) A single length of fire hose, with an attached nozzle, must be connected to each fire hydrant at all times. If the hose is exposed to freezing weather, it may be removed from the location during freezing weather.

(d) The outlet on each fire hydrant must not point above the horizontal.

(e) Each fire hydrant must have a shutoff valve.

(f) Any equipment that is located in the same space as the fire hydrant must not impede access to the hydrant.

(g) Each fire hydrant must have at least one spanner wrench at the fire hydrant.

§ 149.425 -- What are the requirements for fire hoses?

(a) At each fire hydrant, there must be a fire hose rack that is--

(1) Prominently marked;

(2) In an exposed location; and

(3) Protected from freezing weather.

(b) Each length of fire hose must be--

(1) 1 1/2 or 2 1/2 inches (4 or 6 centimeters) nominal hose size diameter;

(2) 50-feet (15-meters) nominal hose size length; and

(3) Lined commercial fire hose that conforms to UL 19.

(c) Each fire hose coupling must--

(1) Be made of brass, bronze, or material that has strength and corrosion resistant properties at least equal to those of brass or bronze; and

(2) Have nine threads per inch for 1 1/2-inch (4-centimeter) hose or seven and a half threads per inch for 2 1/2-inch (6-centimeter) hose.

(d) Each fire hose nozzle must be a combination solid-stream and water-spray fire hose nozzle that is approved under 46 CFR part 162, subpart 162.027. Nozzles approved under that subpart before June 24, 1996, may be retained as long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection (OCMI).

(e) A combination solid-stream and waterspray fire hose nozzle approved under 46 CFR part 162, subpart 162.027, before June 24, 1996, must have a low-velocity water spray applicator (also approved under the provisions of that subpart in effect before June 24, 1996 and contained in the 46 CFR parts 156 to 165 volume revised as of October 1, 1995) when installed--

(1) In a machinery space containing oil fired boilers, internal combustion machinery, or fuel oil units; or

(2) On a helicopter deck.

§ 149.430 -- What are the requirements for fire-fighting equipment that is not required by this subchapter?

Each item of fire-fighting equipment on a pumping platform complex that is not required by this subchapter must be approved by the Commandant (G-M).

Subpart E--Aids to Navigation

General

§ 149.500 -- What does this subpart do?

This subpart provides requirements for aids to navigation on deepwater ports.

§ 149.505 -- What are the general requirements for aids to navigation?

The following requirements apply to aids to navigation under this subpart:

(a) Section 66.01-5 of this chapter on application to establish, maintain, discontinue, change, or transfer ownership of an aid, except as under 149.510.

(b) Section 66.01-25(a) and (c) of this chapter on discontinuing or removing an aid. For the purposes of 66.01-25(a) and (c) of this chapter, aids to navigation at a deepwater port are considered Class I aids under 66.01-15 of this chapter.

(c) Section 66.01-50 of this chapter on protection of an aid from interference and obstruction.

(d) Section 66.01-55 of this chapter on transfer of ownership of an aid.

§ 149.510 -- How do I get permission to establish an aid to navigation?

(a) To establish an aid to navigation on a deepwater port, the licensee must submit an application under 66.01-5 of this chapter, except the application must be sent to the Commandant (G-M).

(b) At least 180 days before the installation of any structure at the site of a deepwater port, the licensee must submit an application for obstruction lights and other private aids to navigation for the particular construction site.

(c) At least 180 days before beginning oil or natural gas transfer operations or changing the mooring facilities at the deepwater port, the licensee must submit an application for private aids to navigation.

Lights

§ 149.520 -- What kind of lights are required?

(a) Lights required by this subpart must be generated by omnidirectional lanterns or rotating beacons.

(b) An omnidirectional lantern must generate a fan beam, where the beam is concentrated in a horizontal plane.

(c) A rotating beacon must generate one or more pencil beams, where each beam is conical, similar to the beam from a flashlight.

(d) Lanterns and beacons must have a way to focus the light or must be certified by the manufacturer as not requiring focusing.

§ 149.521 -- What is "effective intensity," as used in this subpart?

For the purpose of this subpart, "effective intensity" means the intensity of an intermittent light signal calculated by using the following equation:

$$I[e] = \frac{J}{C + \frac{J}{I[o]}},$$

where I[e] is the effective intensity of the light; I[o] is the maximum intensity of the flash; C is a visual time constant taken to be 0.2 seconds for nighttime observation; and J is the integrated intensity of the flash. J is calculated by the following equation:

$$J = [zeta]<t[2]>[t[1]]I(t)dt,$$

where t[1] is the starting time and t[2] is the ending time for the light. This equation is valid for both flashed and rotated light signals.

§ 149.523 -- What are the requirements for flash intervals?

The flash interval (i.e., time difference between the beginning and end of any single flash) from an omnidirectional lantern must not be less than 0.2 seconds. For lights that are pulsed during the flash interval, the pulse frequency must not be less than 100 Hz.

§ 149.525 -- What are the chromaticity requirements for lights?

The color emitted by a light must be uniform at all angles and in all directions and have chromaticity coordinates lying within the regions defined by the corner coordinates in table 149.525 of this section, when plotted on the CIE Standard Observer Diagram.

Table 149.525--Chromaticity Coordinates

	Chromaticity coordinates	
Color	x	y

	Axis	Axis
White	0.285	0.332
	.453	.440
	.500	.440
	.500	.382
	.440	.382
	.285	.264
Green	0.009	0.720
	.284	.520
	.207	.397
	.013	.494
Red	0.665	0.335
	.645	.335
	.680	.300
	.700	.300
Yellow	0.560	0.440
	.555	.435
	.612	.382
	.618	.382

§ 149.527 -- What are the requirements for vertical divergence of lights?

(a) Each light on a buoy, hose string, or SPM must--

(1) Meet the effective intensity required by this subpart within [plusmn]1[deg] from the focal plane of the light for the arc included; and

(2) Meet 50 percent of the effective intensity required by this subpart within [plusmn]2[deg] from the focal plane of the light for the arc.

(b) Each light on a platform must--

(1) Meet the effective intensity required by this subpart within [plusmn]0.5[deg] from the focal plane of the light for the arc included; and

(2) Meet 50 percent of the effective intensity required by this subpart within [plusmn]1[deg] from the focal plane of the light for the arc.

Lights on Platforms

§ 149.530 -- How many obstruction lights must a platform have, and where must they be located?

(a) A platform that is 30 feet (9 meters) or less on any side, or in diameter, must have at least one obstruction light.

(b) A platform that is more than 30 feet (9 meters) but less than 50 feet (15 meters) on any side, or in diameter, must have at least two obstruction lights located as far apart from each other as possible.

(c) A platform that is more than 50 feet (15 meters) on any side must have at least one obstruction light located on each corner.

(d) A circular platform that has a diameter of more than 50 feet (15 meters) must have at least four obstruction lights located as far apart from each other as possible.

(e) Obstruction lights on platforms must be located at least 20 feet (6 meters) above mean high water.

(f) If a platform has more than one obstruction light, the lights must all be located in the same horizontal plane.

(g) At least one obstruction light on a platform must be visible from the water, regardless of the angle of approach to the structure.

§ 149.531 -- What are the required characteristics and intensity of obstruction lights on platforms?

(a) Each obstruction light on a platform must--

(1) Display a white light signal; and

(2) Flash 50 to 70 times per minute.

(b) If a platform has more than one obstruction light, the lights must flash simultaneously.

(c) Each obstruction light on a platform must have an effective intensity of at least 75 candela.

§ 149.533 -- What are the requirements for leveling obstruction lights on platforms?

Each obstruction light on a platform must have--

(a) Mounting hardware that allows the light to be leveled horizontally; and

(b) One or more leveling indicators permanently attached to the light, each with an accuracy of [plusmn]0.25[deg] or better.

§ 149.535 -- What are the requirements for rotating beacons on platforms?

In addition to obstruction lights, the tallest platform of a deepwater port must have a rotating lighted beacon that--

(a) Has an effective intensity of at least 15,000 candela;

(b) Flashes at least once every 20 seconds;

(c) Provides a white light signal;

(d) Operates in wind speeds up to 100 knots at a rotation rate that is within 6 percent of the operating speed displayed on the beacon;

(e) Has one or more leveling indicators permanently attached to the light, each with an accuracy of [plusmn]0.25[deg], or better; and

(f) Is located--

(1) At least 60 feet (18 meters) above mean high water;

(2) Where the structure of the platform, or equipment mounted on the platform, does not obstruct the light in any direction; and

(3) So that it is visible all around the horizon.

Lights on Single Point Moorings

§ 149.540 -- What are the requirements for obstruction lights on an SPM?

(a) An SPM must have at least one obstruction light; provided, however, this subsection (a) shall not be applicable to submerged SPM buoys.

(1) At least one obstruction light must be visible from the water, regardless of the angle of approach to the SPM.

(2) Obstruction lights on an SPM must be located at least 10 feet (3 meters) above mean high water.

(b) If an SPM has more than one obstruction light, the lights must all be installed in the same horizontal plane.

(c) If a submerged SPM buoy is fitted with a messenger line, it shall have a lighted marker.

§ 149.545 -- What are the required characteristics and intensity of obstruction lights on an SPM?

(a) Each obstruction light on an SPM must--

(1) Display a white light signal;

(2) Flash 50 to 70 times per minute; and

(3) Have an effective intensity of at least 15 candela.

(b) If an SPM has more than one obstruction light, the lights must flash simultaneously.

Lights on Floating Hose Strings

§ 149.550 -- What are the requirements for lights on a floating hose string?

(a) A floating hose string must have at least one omnidirectional light, mounted on the hose-end support buoy.

(b) Lights marking the floating hose string must be located at the same height 2 to 5 feet (.6 meters to 1.5 meters) above the surface of the water.

(c) Lights on the hose-end support buoy must be located so that the structure of the buoy, or any other devices mounted on the buoy, do not obstruct the light in any direction.

(d) Additional lights may be installed along the length of the floating hose string. Any additional lights marking the floating hose string must comply with the requirements for lights on the hose-end support buoy.

§ 149.555 -- What are the required characteristics and intensity of lights on a floating hose string?

Each light marking a floating hose string must--

(a) Display a yellow light signal;

(b) Flash 50 to 70 times per minute; and

(c) Have an effective intensity of at least 10 candela.

Lights on Buoys Used to Define Traffic Lanes

§ 149.560 -- How must buoys used to define traffic lanes be marked and lighted?

(a) Each buoy that is used to define the lateral boundaries of a traffic lane at a deepwater port must meet 62.25 of this chapter.

(b) The buoy must have an omnidirectional light located at least 8 feet (2.4 meters) above the water.

(c) The buoy light must be located so that the structure of the buoy, or any other devices mounted on the buoy, do not obstruct the light in any direction.

§ 149.565 -- What are the required characteristics and intensity of lights on buoys used to define traffic lanes?

(a) The color of the light on a buoy that is used to define the lateral boundaries of a traffic lane must correspond with the color schemes for buoys in 62.25 of this chapter.

(b) The buoy light may be fixed or flashing. If it is flashing, it must flash at intervals of not more than 6 seconds.

(c) Buoy lights must have an effective intensity of at least 25 candela.

Miscellaneous

§ 149.570 -- How is a platform or SPM identified?

(a) Each platform and non-submerged SPM must display the name of the deepwater port and the name or number identifying the structure, so that the information is visible--

(1) From the water at all angles of approach to the structure; and

(2) If the structure is equipped with a helicopter pad, from aircraft on approach to the structure.

(b) The information required in paragraph (a) of this section must be displayed in numbers and letters that are--

(1) At least 12 inches (30 centimeters) high;

(2) In vertical block style; and

(3) Displayed against a contrasting background.

§ 149.575 -- How must objects protruding from the water, other than platforms and SPM's, be marked?

(a) Each object protruding from the water that is within 100 yards (91 meters) of a platform or SPM must be marked with white reflective tape.

(b) Each object protruding from the water that is more than 100 yards (91 meters) from a platform or SPM must meet the obstruction lighting requirements in this subpart for a platform.

§ 149.580 -- What are the requirements for a radar beacon?

(a) A radar beacon must be located on the tallest platform of a pumping platform complex.

(b) The beacon must meet the following:

(1) Be an FCC-type-accepted radar beacon (RACON).

(2) Transmit--

(i) In both the 2900-3100 MHz and 9300-9500 MHz frequency bands; or

(ii) If installed before July 8, 1991, in the 9320-9500 MHz frequency band.

(3) Transmit a signal of at least 250 milliwatts radiated power that is omnidirectional and polarized in the horizontal plane.

(4) Transmit a two or more element Morse code character, the length of which does not exceed 25 percent of the radar range expected to be used by vessels operating in the area.

(5) If of the frequency agile type, be programmed so that it will respond at least 40 percent of the time but not more than 90 percent of the time with a response time duration of at least 24 seconds.

(6) Be located at a minimum height of 15 feet (4.5 meters) above the highest deck of the platform and where the structure of the platform, or equipment mounted on the platform, does not obstruct the signal propagation in any direction.

§ 149.585 -- What are the requirements for fog signals?

(a) Each pumping platform complex must have a fog signal approved under part 67, subpart 67.10, of this chapter that has a 2-mile (3-kilometer)

range. A list of Coast Guard approved fog signals is available from any District Commander.

(b) Each fog signal must be--

(1) Located at least 10 feet (3 meters) but not more than 150 feet (46 meters) above mean high water; and

(2) Located where the structure of the platform, or equipment mounted on it, does not obstruct the sound of the signal in any direction.

Subpart F--Design and Equipment

General

§ 149.600 -- What does this subpart do?

This subpart provides general requirements for equipment and design on deepwater ports.

§ 149.610 -- What must the District Commander be notified of and when?

The District Commander must be notified of the following:

When--	The District Commander must be notified--
(a) Construction of a pipeline, platform, or SPM is planned	At least 30 days before construction begins.
(b) Construction of a pipeline, platform, or SPM begins	Within 24 hours, from the date construction begins, that the lights and fog signals are in use at the construction site.
(c) A light or fog signal is changed during construction	Within 24 hours of the change.
(d) Lights or fog signals used during construction of a platform, buoy, or SPM are replaced by permanent fixtures to meet the requirements of this part	Within 24 hours of the replacement.
(e) The first oil or natural gas transfer operation begins	At least 60 days before the initial delivery of oil or gas to the deepwater port.

§ 149.615 -- What construction drawings and specifications are required?

(a) To show compliance with the Act and this subchapter, the licensee must submit to the Commandant (G-M) three copies of--

(1) Each construction drawing and specification; and

(2) Each revision to a drawing and specification.

(b) Each drawing, specification, and revision under paragraph (a) of this section must bear the seal, or a facsimile imprint of the seal, of the registered professional engineer responsible for the accuracy and adequacy of the material.

§ 149.620 -- What happens when the Commandant (G-M) reviews and evaluates the construction drawings and specifications?

(a) The Commandant (G-M) reviews and evaluates construction drawings and specifications to ensure compliance with the Act and this subchapter.

(b) Construction may not begin until the drawings and specifications are approved by the Commandant (G-M).

(c) Once construction begins, the Coast Guard periodically inspects the construction site to ensure that the construction complies with the drawings and specifications approved under paragraph (b) of this section.

(d) When construction is complete, the licensee must submit two complete sets of as-built drawings and specifications to the Commandant (G-M).

§ 149.625 -- What are the design standards?

(a) Each component, except for hoses, mooring lines, and aids to navigation buoys, must be designed to withstand at least the combined wind, wave, and current forces of the most severe storm that can be expected to occur at the deepwater port in any period of 100 years.

Note to 149.625(a): "Recommended Procedure for Developing Deepwater Ports Design Criteria" describes a method to prepare the wind, wave, and current criteria for use in determining the forces of the storm described by this paragraph. You may obtain this guide from the Commandant (G-M).

(b) Each port that is contracted for on or after [effective date of final rule.] must be designed according to API RP 2A-WSD (working stress design) or API RP 2A-LRFD (load and resistance factor design) to the extent that they are consistent with this subchapter.

(c) Each electrical installation on a port must be designed, to the extent practicable according to 46 CFR chapter I, subchapter J, (Electrical Equipment).

(d) Each boiler and pressure vessel on a port must be designed according to ASME "Boiler and Pressure Vessel Code," sections I, IV, and VIII, to the extent that they are consistent with this subchapter.

(e) Main oil transfer piping on a port must be designed according to ANSI B 31.4 (Liquid Petroleum Transportation Piping Systems).

(f) Heliports on fixed deepwater ports must be designed according to API RP 2L. Heliports on floating deepwater ports must meet the design

requirements for heliports on mobile offshore drilling units in 46 CFR part 108.

Systems Fire Protection

§ 149.630 -- What do the systems fire protection regulations apply to?

Sections 149.635 through 149.690 apply to the following:

(a) Each deepwater port that--

(1) Was contracted for, or the construction of which began, on or after [effective date of final rule.]; or

(2) Underwent a major conversion that began on or after [effective date of final rule.].

(b) When on a deepwater port under paragraph (a)(1) of this section--

(1) Each accommodation module; or

(2) Each temporary accommodation module.

§ 149.640 -- What are the requirements for systems fire protection?

The pumping platform complex must comply with the requirements for systems fire protection in 143.1115 through 143.1135 of this chapter, except for the requirements on Emergency Evacuation Plans under 143.1125 of this chapter.

Note: Sections 143.1115 through 143.1135 referred to in this paragraph are as proposed in *64 FR 68488,* December 7, 1999.

Single Point Moorings

§ 149.650 -- What are the requirements for single point moorings and their attached hoses?

(a) Before operating an SPM and its attached hose, the SPM and hose must meet--

(1) ABS Rules for Building and Classing Single Point Moorings; or

(2) If approved by the Commandant (G-M), the standards of another recognized classification society that provide the same or a greater level of safety.

(b) As evidence of compliance with the standards under paragraph (a) of this section, the licensee must obtain--

(1) An Interim Class Certificate or a Classification Certificate issued by the American Bureau of Shipping (ABS); or

(2) A similar certificate issued under paragraph (a)(2) of this section by another recognized classification society.

(c) The SPM and hose must be maintained in class.

Helicopter Fueling Facilities

§ 149.655 -- What are the requirements for helicopter fueling facilities?

Helicopter fueling facilities must comply with the NFPA 407, part 2-5 (fueling on elevated heliports). For the purposes of this section, "ground level" as used in NFPA 407 means below the lowest platform working level.

Emergency Power

§ 149.660 -- What are the requirements for emergency power?

(a) Each pumping platform complex must have emergency power equipment to provide power to operate simultaneously all of the following for a continuous period of 8 hours:

(1) Emergency lighting circuits.

(2) Aids to navigation equipment.

(3) Communications equipment.

(4) Radar equipment.

(5) Alarm systems.

(6) Electrically operated fire pumps.

(7) Other electrical equipment identified as emergency equipment in the Operations Manual for the deepwater port.

(b) No emergency power generating equipment may be located in any enclosed space on a platform that contains oil transfer pumping equipment or other power generating equipment.

General Alarm System

§ 149.665 -- What are the requirements for a general alarm system?

Each pumping platform complex must have a general alarm system that meets the following:

(a) Is capable of being activated manually by the use of alarm boxes located according to NFPA 72.

(b) Is audible in all parts of the pumping platform complex, except in areas of high ambient noise levels where hearing protection is required under 150.600 of this chapter.

(c) Has a high intensity flashing light in areas where hearing protection is used.

§ 149.670 -- What are the requirements for marking a general alarm system?

Each of the following must be marked with the words "GENERAL ALARM" in yellow letters at least 1-inch high on a red background:

(a) Each general alarm box.

(b) Each audio or visual device under 149.665 for signaling the general alarm.

Public Address System

§ 149.675 -- What are the requirements for the public address system?

Each pumping platform complex must have a public address system operable from two locations on the complex.

Medical Treatment Rooms

§ 149.680 -- What are the requirements for medical treatment rooms?

Each deepwater port with sleeping spaces for 12 or more persons, including persons in accommodation modules and temporary accommodation modules, must have a medical treatment room that has--

(a) A sign at the entrance designating it as a medical treatment room;

(b) An entrance that is wide enough and arranged to readily admit a person on a stretcher;

(c) A single berth or examination table that is accessible from both sides; and

(d) A washbasin located in the room.

§ 149.685 -- May I use a medical treatment room for other purposes?

Yes, you may use a medical treatment room as a sleeping space if the room meets the requirements of this subpart for both medical treatment rooms and sleeping spaces. You may also use it as an office. However, when you use the room for medical purposes, it may not be used as a sleeping space or office.

Miscellaneous

§ 149.690 -- What are the requirements for means of escape, personnel landings, guardrails, and similar devices and for noise limits

The deepwater port must comply with §§ 143.1220 through 143.1236 of this chapter on means of escape, personnel landings, guardrails and similar devices, and noise limits.

Note: Sections 143.1220 through 143.1236 referred to in this paragraph are as proposed in *64 FR 68487-68490,* December 7, 1999.

§ 149.695 -- What kind of portable lights may be used on a pumping platform complex?

Each portable light and its supply cord on a pumping platform complex must be designed for the environment where it is used.

PART 150--DEEPWATER PORTS: OPERATIONS

Subpart A--General

Subpart B--Inspections

Subpart C(1)—Personnel - Manned Deepwater Ports

Subpart C(2)—Personnel - Unmanned Deepwater Ports

Subpart D(1)--Vessel Navigation - Manned Deepwater Ports

Authority: *33 U.S.C. 1231,* 1321(j)(1)(c), (j)(5), (j)(6) and (m)(2), *33 U.S.C. 1509*(a); sec. 2, E.O. 12777, 56 54757; 49 CFR 1.46.

Subpart A--General

§ 150.1 -- What does this part do?

This part provides requirements for the operation of deepwater ports.

150.5 -- Where can I find the definition of a term used in this part?

See 148.5 of this chapter for the definition of certain terms used in this part.

§ 150.10 -- What are the general requirements for operations manuals?

(a) Each deepwater port must have an operations manual that is approved by the Commandant (G-M) as meeting the requirements of the Act and this subchapter. The original manual is approved as part of the application process in part 148 of this chapter.

(b) The manual must be readily available on the deepwater port for use by personnel.

(c) The licensee must ensure that all personnel follow the procedures in the manual while at the deepwater port.

§ 150.15 -- What must the operations manual include?

The operations manual required by § 150.10 must identify the deepwater port and, to the extent applicable, include the following:

(a) A description of the geographic location of the deepwater port.

(b) A physical description of the port.

(c) A description of the communication system.

(d) A plan of the layout of the mooring areas, aids to navigation, cargo transfer locations, and control stations.

(e) The hours of operation.

(f) The size, type, number, and simultaneous operations of tankers that the port can handle.

(g) The procedures for the navigation of tankers, including--

(1) The operating limits, maneuvering capability, draft, net under-keel clearance, and dimensions of the tanker;

(2) Any special navigation or communication equipment that may be required for operating in the safety zone;

(3) The measures for routing vessels;

(4) Any mooring equipment needed to make up to the SPM;

(5) The procedures for clearing tankers, support vessels, and other vessels during emergency and routine conditions;

(6) Any special illumination requirements for arrival, discharge, and departure operations;

(7) Any special watchstanding requirements for transiting, mooring, or while at anchor;

(8) The hours when a radio watch is maintained and the frequencies monitored;

(9) The weather limits for tankers; and

(10) The duties, title, qualifications, and training of personnel of the port.

(h) The procedures for transferring cargo, including--

(1) The requirements for oil or natural gas transfers;

(2) The shipping name of, and Material Safety Data Sheet on, the product transferred;

(3) The duties, title, qualifications, and training of personnel of the port;

(4) Minimum requirements for watch personnel on board the vessel during transfer operations (i.e., personnel necessary for checking mooring gear, monitoring communications and having propulsion/steering on standby);

(5) The start-up and completion of pumping;

(6) Emergency shutdown;

(7) The maximum relief valve settings, the maximum available working pressure and hydraulic shock to the system without relief valves, or both;

(8) Equipment necessary to discharge cargo to the port; and

(9) Describe the method to be used to water and de-water the SPM hoses when required.

(i) Unusual arrangements that may be applicable, including--

(1) A list and description of any extraordinary equipment or assistance available to vessels with inadequate pumping capacity, small cargoes, small diameter piping, or inadequate crane capacity; and

(2) A description of special storage or delivery arrangements for unusual cargoes.

(j) Safety and fire protection procedures, including--

(1) Housekeeping and illumination of walking and working areas;

(2) Emergency internal and external notifications;

(3) Quantity, type, location, and use of safety and fire protection equipment;

(4) Personal protection equipment; and

(5) Helicopter landing pad operations.

(k) A port security plan that addresses security issues, including but not be limited to controlling access of personnel and the introduction of goods and material into the deepwater port, monitoring and alerting vessels that approach or enter the port's security zone, identifying risks and procedures for increasing the probability of detecting and deterring terrorist or subversive activity (such as using security lighting and designating restricted areas within the port and remotely alarming them, as appropriate), notification requirements (both internally and externally) and response requirements in the event of a perceived threat or an attack on the port, designating the Port Security Officer, providing positive and verifiable identification of personnel with access to the port, the training (including

drills) required for all personnel regarding security issues, and the scalability of actions and procedures for the various levels of threat.

(l) Procedures for any special operations, including--

(1) Evacuation and re-manning procedures;

(2) Refueling operations;

(3) Diving operations;

(4) Support vessel operations; and

(5) Providing logistical services.

(m) The maintenance procedures, tests, and recordkeeping for--

(1) Oil or natural gas transfer equipment;

(2) Fire prevention equipment;

(3) Safety equipment; and

(4) Cranes.

(n) Emergency drills, including--

(1) Type;

(2) Frequency; and

(3) Documentation.

(o) A program for monitoring the environmental effects of the port and its operations in order to maintain compliance with the environmental conditions in the license and applicable environmental laws. The program must provide for the periodic re-examination of the physical, chemical, and biological factors contained in the port's environmental impact analysis and baseline study submitted with the license application.

§ 150.20 -- How many copies of the operations manual must I give to the Coast Guard?

The licensee must give the Commandant (G-M) at least five copies of the original operations manual approved when the deepwater port license was issued and five copies of each subsequent amendment to the manual.

§ 150.25 -- When must I amend the operations manual?

(a) Whenever the Captain of the Port (COTP) finds that the operations manual does not meet the requirements of this part, the COTP notifies the licensee in writing of the inadequacies in the manual.

(b) Within 45 days after the notice under paragraph (a) of this section is sent, the licensee must submit written amendments to eliminate the inadequacies.

(c) The COTP reviews the amendments, makes a determination as the adequacy of the amendments and notifies the licensee of the determination.

(d) If the COTP decides that an amendment is necessary, the amendment goes into effect 60 days after the COTP notifies the licensee of the amendment.

(e) The licensee may petition the Commandant (G-M) to review the decision of the COTP. In this case, the effective date of the amendment is delayed pending the Commandant's decision. Petitions must be made in writing and presented to the COTP for forwarding to the Commandant (G-M).

(f) If the COTP finds that a particular situation requires immediate action to prevent a spill or discharge, or to protect the safety of life and property, the COTP may issue an amendment effective on the date that the licensee receives it. The COTP must include a brief statement of the reasons for the immediate amendment. The licensee may petition the District Commander for review, but the petition does not delay the effective date of the amendment.

§ 150.30 -- How may I propose an amendment to the operations manual?

(a) The licensee may propose an amendment to the operations manual--

(1) By submitting in writing the amendment and reasons for the amendments to the COTP not less than 30 days before the requested effective date of the amendment; or

(2) If the amendment is needed immediately, by submitting the amendment, and reasons why the amendment is needed immediately, to the COTP in writing.

(b) The COTP responds to a proposed amendment by notifying the licensee, in writing, before the requested date of the amendment whether the request is approved. If the request is disapproved, the COTP includes the reasons for disapproval in the notice. If the request is for an immediate amendment, the COTP responds as soon as possible.

§ 150.35 -- How may an adjacent coastal State request an amendment to the operations manual?

(a) An adjacent coastal State connected by pipeline to the deepwater port may petition the COTP to amend the operations manual. The petition must include sufficient information to allow the COTP to reach a decision concerning the proposed amendment.

(b) After the COTP receives a petition, the COTP requests comments from the licensee.

(c) After reviewing the petition and comments and considering the costs and benefits involved, the COTP may approve the petition if the proposed amendment will provide equivalent or improved protection and safety. The adjacent coastal State may petition the Commandant (G-M) to review the decision of the COTP. Petitions must be made in writing and presented to the COTP for forwarding to the Commandant (G-M) via the District Commander.

§ 150.40 -- When may I deviate from the operations manual?

If, because of a particular situation, the licensee needs to deviate from the operations manual, the licensee must submit a written request to the COTP explaining why the deviation is necessary and what alternative is proposed. If the COTP determines that the deviation would ensure equivalent or greater protection and safety, the COTP authorizes the deviation and notifies the licensee in writing.

§ 150.45 -- In an emergency, when may I deviate from this subchapter or the operations manual?

In an emergency, any person may deviate from any requirement in this subchapter or any procedure in the operations manual to ensure the safety of life, property, or the environment. Each deviation must be reported to the COTP at the earliest possible time.

§ 150.50 -- What are the requirements for an oil spill response plan?

(a) Each deepwater oil port must have an oil spill response plan that meets part 154, subpart F, of this chapter.

(b) The response plan must be submitted to the COTP in writing not less than 60 days before the deepwater port begins operation.

Subpart B--Inspections

§ 150.100 -- What are the requirements for inspecting deepwater ports?

Under the direction of the OCMI, marine inspectors may inspect deepwater ports to determine whether the requirements of this subchapter are met. A marine inspector may conduct an inspection, with or without advance notice, at any time the OCMI deems necessary.

Subpart C(1) - Personnel - Manned Deepwater Ports

§ 150.200 -- What does this subpart do?

This subpart prescribes qualifications for personnel on manned deepwater ports.

§ 150.205 -- Who must ensure that personnel are qualified?

The licensee must ensure that the individual filling a position meets the qualifications for that position in this subpart.

§ 150.210 -- What are the language requirements for personnel?

Only persons who read, write, and speak English may occupy the following positions:

(a) Port Superintendent.

(b) Cargo Transfer Supervisor.

(c) Cargo Transfer Assistant.

(d) Vessel Traffic Supervisor.

(e) Mooring Master.

(f) Assistant Mooring Master.

§ 150.215 -- What are the restrictions on serving in more than one position?

No person may serve in more than one of the following positions at any one time:

(a) Port Superintendent.

(b) Cargo Transfer Supervisor.

(c) Cargo Transfer Assistant.

(d) Vessel Traffic Supervisor.

(e) Mooring Master.

(f) Assistant Mooring Master.

§ 150.220 -- What are the qualifications for a Port Superintendent?

(a) A Port Superintendent must meet the following:

(1) Have enough experience in managing oil or natural gas transfer activities to demonstrate the capability of managing a deepwater port;

(2) Know the operational requirements in this part;

(3) Know the hazards of each product handled at the port;

(4) Know the procedures in the operations manual; and

(5) Be designated as Port Superintendent by the licensee.

(b) The COTP must be notified, in writing, of the designation.

§ 150.225 -- What are the qualifications for a Cargo Transfer Supervisor?

(a) A Cargo Transfer Supervisor must meet the following:

(1) Have enough experience in managing cargo transfers at a transfer facility to demonstrate the capability of managing cargo transfers at a deepwater port.

(2) Have had at least 1 year of continuous employment as supervisor at a transfer facility in charge of offloading oil tankers of 70,000 deadweight tons (DWT) or larger, or liquid or liquefied gas tankers of 30,000 deadweight tons (DWT) or larger.

(3) Have supervised at least 25 cargo transfer evolutions from oil tankers of 70,000 DWT or larger, or have supervised at least 15 cargo transfer evolutions from liquid or liquefied gas tankers of 30,000 DWT or larger, or served in a training capacity for cargo transfer supervisor, in one of the foregoing commodities, at a deepwater port in the United States for at least 1 year.

(4) Know the requirements for oil or natural gas transfer operations in subpart E of this part.

(5) Know the oil or natural gas transfer procedures and transfer control systems, in general, of tankers serviced at the port.

(6) Know the special handling characteristics of each product transferred at the port.

(7) Know the procedures in the operations manual for--

(i) Oil or natural gas transfers;

(ii) Spill or discharge prevention, containment, and cleanup;

(iii) Accidents and emergencies; and

(iv) Voice radio-telecommunications.

(8) Be designated as Cargo Transfer Supervisor by the licensee.

(b) The COTP must be notified, in writing, of the designation.

§ 150.230 -- What are the qualifications for a Vessel Traffic Supervisor?

(a) A Vessel Traffic Supervisor must meet the following:

(1) Have worked with radar plotting and analysis of vessel movement for 1 of the previous 5 years or successfully completed a marine radar operators school acceptable to the Commandant (G-M).

(2) Know the procedures for using the port's radar equipment.

(3) Know the procedures in the operations manual for vessel control and voice radio-telecommunications.

(4) Be designated as Vessel Traffic Supervisor by the licensee.

(b) The COTP must be notified, in writing, of the designation.

§ 150.235 -- What are the qualifications for a Mooring Master?

(a) A Mooring Master must meet the following:

(1) Hold a current merchant mariners license issued by the Coast Guard under 46 CFR part 10 as--

(i) A master of ocean steam or motor vessels of any gross tons, endorsed as radar observer, and have 1 year of experience as--

(A) With respect to oil, a master on tankers of 70,000 DWT or larger and have satisfactorily completed a very-large-crude-carrier (VLCC) shiphandling course acceptable to the Commandant (G-M); or

(B) With respect to oil, a Mooring Master at any deepwater port servicing tankers of 70,000 DWT or larger; or

(C) With respect to natural gas, a master on tankers of 30,000 DWT or larger and having satisfactorily completed a shiphandling course acceptable to the Commandant (G-M); or

(D) With respect to natural gas, a Mooring Master at any deepwater port servicing tankers of 30,000 DWT or larger.

(ii) Master of ocean steam or motor vessels of limited tonnage, endorsed as radar observer, and endorsed as first-class pilot of vessels of any gross tons for at least one port in the area of the deepwater port, and have one year of experience--

(A) Piloting ocean going vessels, including oil tankers of 70,000 DWT or larger, or liquid or liquefied gas tankers of 30,000 DWT or larger;

(B) As assistant mooring master at the facility and satisfactorily completed a very-large-crude-carrier (VLCC) shiphandling course or other shiphandling course acceptable to the Commandant (G-M); or

(iii) Master of ocean steam or motor vessels of limited tonnage or chief mate of ocean, steam, or motor vessels of unlimited tonnage with 1-year experience in charge of an offshore crude oil lightering operation.

(2) Know the procedures in the operations manual for--

(i) Vessel control;

(ii) Vessel responsibilities;

(iii) Spill prevention, containment, and cleanup;

(iv) Accidents and emergencies; and

(v) Voice radio-telecommunications.

(3) Be designated as Mooring Master by the licensee.

(b) The COTP must be notified, in writing, of the designation.

(c) Applicants for Mooring Master must have observed 20 mooring evolutions at a deepwater port.

§ 150.240 -- What are the qualifications for a Cargo Transfer Assistant?

(a) A Cargo Transfer Assistant must meet the following:

(1) Have 1 year of experience, or must have performed 15 cargo transfer evolutions, in one of the following commodities, at a transfer facility servicing oil tankers of 70,000 DWT or larger, or liquid or liquefied gas tankers of 30,000 DWT or larger. This experience must include connecting and disconnecting tankers to a floating hose string for a single point mooring.

(2) Know the requirements for oil or natural gas transfer operations in subpart E of this part.

(3) Know the oil or natural gas transfer procedures and transfer control systems, in general, of tankers serviced at the facility.

(4) Know the special handling characteristics of each product to be transferred.

(5) Know the procedures in the operations manual for--

(i) Oil transfers;

(ii) natural gas transfers;

(iii) Spill prevention, containment, and cleanup;

(iv) Accidents and emergencies; and

(v) Voice radio-telecommunications.

(6) Be designated as Cargo Transfer Assistant by the licensee.

(b) This designation must be kept in writing at the deepwater port.

§ 150.245 -- What are the qualifications for an Assistant Mooring Master?

(a) An Assistant Mooring Master must meet the following:

(1) Hold a current merchant mariners license issued by the Coast Guard under 46 CFR part 10 as--

(i) A master of ocean steam or motor vessels of any gross tonnage, endorsed as radar observer, and have 6-months experience as master or chief mate on oil tankers of 70,000 DWT or larger, or on liquid or liquefied gas tankers of 30,000 DWT or larger; or

(ii) A master of ocean steam or motor vessels of limited tonnage, endorsed as radar observer, and endorsed as first-class pilot of vessels of any gross tonnage for at least one port in the area of the deepwater port.

(2) Know the procedures in the operations manual for--

(i) Vessel control;

(ii) Vessel responsibilities;

(iii) Spill prevention, containment, and cleanup;

(iv) Accidents and emergencies; and

(v) Voice radio-telecommunications.

(3) Be designated as Assistant Mooring Master by the licensee.

(b) The COTP must be notified in writing of the designation.

§ 150.250 -- What training and instruction are required?

Personnel must receive training and instruction under 143.510 and 143.515 of this chapter. [*Note:* Sections 143.510 and 143.515 referred to in this paragraph are as proposed in *64 FR 68473,* December 7, 1999.]

Subpart C(2) Personnel - Unmanned Deepwater Ports

§ 150.260 - What does this subpart do?

This subpart prescribes qualifications for personnel on unmanned deepwater ports.

§ 150.265 - Who must ensure that personnel are qualified?

The licensee must ensure that the individual filling a position meet the qualifications for that position in this subpart.

§ 150.270 - What qualifications shall apply to personnel providing services at an unmanned deepwater port?

The qualifications for personnel at an unmanned deepwater port shall be established by the Commandant (G-M), in consultation with the COTP. Such qualifications will be based on a manning analysis conducted by the applicant, the results of which shall be submitted for approval by the Commandant (G-M) and the COTP. The analysis shall identify the personnel required to provide services at an unmanned deepwater port, together with titles for such personnel and the functions of each. Following approval by the Commandant (G-M) and the COTP, such information shall be set forth as a part of the operations manual required by Subpart A.

Subpart D(1)--Vessel Navigation - Manned Deepwater Ports

§ 150.300 -- What does this subpart do?

(a) For manned deepwater ports, this subpart prescribes requirements that-

(1) Apply to the navigation of all vessels at or near a deepwater port; and

(2) Describe the activities that vessels may or may not engage in a safety zone under subpart J of this part.

(b) These requirements supplement the International Regulations for Preventing Collisions at Sea (COLREGS).

§ 150.310 -- When is radar surveillance required?

The Vessel Traffic Supervisor must maintain radar surveillance of the safety zone when-

(a) A tanker is proceeding to the safety zone after submitting the report required in 150.325;

(b) A tanker or support vessel is underway in the safety zone; or

(c) A vessel other than a tanker or support vessel is about to enter or is underway in the safety zone.

§ 150.320 -- What advisories are given to tankers?

The Vessel Traffic Supervisor must advise the master of each tanker underway in the safety zone of the following:

(a) At intervals not exceeding 10 minutes, the vessel's position by range and bearing from the pumping platform complex.

(b) The position and the estimated course and speed, if moving, of all other vessels that may interfere with the movement of the tanker within the safety zone.

§ 150.325 -- What is the first notice required before a tanker enters the safety zone?

(a) The owner, master, agent, or person in charge of a tanker bound for a deepwater port must report the following information to the Vessel Traffic Supervisor of the port and to the COTP at least 96 hours before entering the safety zone at the port:

(1) The name, gross tonnage, and draft of the tanker.

(2) The type and amount of cargo in the tanker.

(3) The location of the tanker at the time of the report.

(4) Any conditions on the tanker that may impair its navigation, such as fire or malfunctioning propulsion, steering, navigational, or radiotelephone equipment. The testing requirements in 164.25 of this chapter are applicable to vessels arriving at a deepwater port.

(5) Any leaks, structural damage, or machinery malfunctions that may impair cargo transfer operations or cause a discharge of oil.

(6) The operational condition of the equipment listed under 164.35 of this chapter on the tanker.

(b) If the estimated time of arrival changes by more than 6 hours from the last reported time, the COTP and Vessel Traffic Supervisor of the port must be notified of the correction as soon as the change is known.

(c) If the information reported in paragraphs (a)(4) or (a)(5) of this section changes at any time before the tanker enters the safety zone at the deepwater port, or while the tanker is in the safety zone, the master of the tanker must report the changes to the COTP and Vessel Traffic Supervisor of the port as soon as possible.

(d) In addition to the requirements in paragraphs (a), (b), and (c) of this section, the notice of arrival requirements in 160.207 of this chapter are applicable to vessels arriving at a deepwater port.

§ 150.330 -- What is the second notice required before a tanker enters the safety zone?

When a tanker bound for a deepwater port is 20 miles (32 kilometers) from the entrance to the port's safety zone, the master of the tanker must notify the port's Vessel Traffic Supervisor of the tanker's name and location.

§ 150.340 -- What are the rules of navigation for tankers in the safety zone?

(a) A tanker must not enter or depart a safety zone except within a designated safety fairway.

(b) A tanker must not anchor in the safety zone except in a designated anchorage area.

(c) A tanker underway in a safety zone must keep at least 5 miles (8 kilometers) behind any other tanker underway ahead of it in the safety zone.

(d) A tanker must not operate, anchor, or moor in any area of the safety zone in which the net under-keel clearance would be less than 5 feet (1.5 meters).

§ 150.345 -- How are support vessels cleared to move within the safety zone?

All movements of support vessels within the safety zone must be cleared in advance by the Vessel Traffic Supervisor.

§ 150.350 -- What are the rules of navigation for support vessels in the safety zone?

A support vessel must not anchor in the safety zone, except--

(a) In an anchorage area; or

(b) For vessel maintenance that is cleared by the Vessel Traffic Supervisor.

§ 150.355 -- How are other vessels cleared to move within the safety zone?

(a) The Vessel Traffic Supervisor's clearance is required before a vessel, other than a tanker or support vessel, is allowed to enter the safety zone.

(b) The Vessel Traffic Supervisor may clear a vessel under paragraph (a) of this section only if its entry into the safety zone would not--

(1) Interfere with the purpose of the deepwater port;

(2) Endanger the safety of life or property or the environment; or

(3) Otherwise be prohibited by regulation.

§ 150.365 -- What are the responsibilities of the Vessel Traffic Supervisor?

(a) The Vessel Traffic Supervisor controls the movement of vessels entering, moving within, and departing the safety zone around a deepwater port.

(b) The Vessel Traffic Supervisor must provide information concerning other vessels underway or moored in the safety zone.

(c) If the Vessel Traffic Supervisor determines that a vessel may be in danger with respect to any other vessel in the safety zone or to any part of the deepwater port, the Vessel Traffic Supervisor must attempt to inform the vessel's master by radio or by other means.

§ 150.370 -- What are the responsibilities of the Mooring Master?

(a) A Mooring Master must be onboard each tanker when it is underway in the safety zone.

(b) The Mooring Master must advise the master of the tanker on operational and ship-control matters that are particular to the specific deepwater port, such as--

(1) The port's navigational aids;

(2) The depth and current characteristics of the maneuvering area;

(3) The mooring equipment and procedures; and

(4) The port's vessel traffic control procedures.

§ 150.375 -- What are the responsibilities of the Assistant Mooring Master?

When a tanker is mooring at an SPM, an Assistant Mooring Master must be stationed on the forecastle of the tanker to assist the Mooring Master by--

(a) Reporting position approach data relative to the SPM; and

(b) Advising the tanker personnel in the handling of mooring equipment peculiar to the deepwater port.

§ 150.380 -- Under what circumstances may vessels operate within the safety zone?

(a) Table 150.380(a) of this section lists the areas within a safety zone where a vessel may operate and the clearance needed for that location.

Table 150.380(a).--Regulated Activities of Vessels at Deepwater Ports

Regulated Activities	Safety Zone		
	Areas to be avoided around each platform pumping complex and SPM fn1	Anchorage areas	Other areas within safety zone
1. Tankers calling at port	C	C	C

2. Support vessel movements	C	C	C
3. Transit by vessels other than tankers or support vessels	N	P	P
4. Mooring to SPM by vessels other than tankers or support vessels	F		
5. Anchoring by vessels other than tankers or support vessels	N	F	N
6. Fishing, including bottom trawl (shrimping)	N	P	P
7. Mobile drilling operations or erection of structures fn2	N	N	N
8. Lightering/transshipment fn3	N	N	N

fn1 Areas to be avoided are in subpart J of this part.

fn2 Not part of Port Installation.

fn3 Exception, 33 CFR 150.440(e).

Key to regulated activities: F--Only in an emergency. N--Not permitted. C--Movement of the vessel is permitted when cleared by the Vessel Traffic Supervisor. P--Transit is permitted when the vessel is not in the immediate area of a tanker and when cleared by the Vessel Traffic Supervisor. Communication with the Vessel Traffic Supervisor is required. For transiting foreign-flag vessels, the requirement for clearance to enter the safety zone is advisory in nature.

(b) If the activity is not listed in table 150.380(a) of this section or is not otherwise provided for in this subpart, the COTP's permission is required first.

§ 150.385 -- What is required in an emergency?

In an emergency for the protection of life or property, a vessel may deviate from a vessel movement requirement in this subpart without clearance from the Vessel Traffic Supervisor if the master advises the Vessel Traffic Supervisor of the reasons for the deviation at the earliest possible moment.

Subpart D(2) - Vessel Navigation - Unmanned Deepwater Ports

§ 150.386 - What does this subpart do?

This subpart prescribes the requirements applicable to vessels at or near an unmanned deepwater port.

§ 150.387 - What navigation requirements apply to unmanned deepwater ports?

The navigational requirements applicable at or near an unmanned deepwater port shall be established by the Commandant (G-M), in consultation with the

COTP. Such requirements will be based on an analysis conducted by the applicant, the results of which shall be submitted for approval by the Commandant (G-M)and the COTP, and, following such approval, shall be set forth as a part of the operations manual required by Subpart A.

Subpart E--Oil and Natural Gas Transfer Operations

§ 150.400 -- What does this subpart do?

This subpart prescribes rules that apply to the transfer of oil or natural gas at a deepwater port.

§ 150.405 -- How must an Oil Transfer System (OTS) or a Natural Gas Transfer System (NGTS) be tested and inspected?

(a) No person may transfer oil through an OTS or natural gas through an NGTS at a deepwater port unless it has been inspected and tested according to this section.

(b) The SPM-OTS or SPM-NGTS must be maintained as required by the ABS Rules for Building and Classing Single Point Moorings or the ABS Guide for Building and Classing Offshore LNG Terminals (May 2002) or by the rules for maintenance of an SPM-OTS or SPM-NGTS of another classification society approved by the Commandant (G-M).

(c) If the manufacturer's maximum pressure rating for any oil or natural gas transfer hose in the SPM-OTS or SPM-NGTS has been exceeded (unless it was exceeded for testing required by this section), the hose must be--

(1) Removed;

(2) Hydrostatically tested to 1.5 times its maximum working pressure; and

(3) Visually examined externally and internally for evidence of--

(i) Leakage;

(ii) Loose covers;

(iii) Kinks;

(iv) Bulges;

(v) Soft spots; and

(vi) Gouges, cuts, or slashes that penetrate the hose reinforcement.

(d) Each submarine hose used in oil transfer operations in the SPM-OTS must have been removed from its coupling, surfaced, and examined as described in paragraphs (c)(2) and (c)(3) of this section within the preceding 2 years; and

(e) Before resuming oil transfer operations, each submarine hose in the SPM-OTS must be visually examined in place as described in paragraph (c)(3) of this section after transfer operations are shut down due to sea conditions at the deepwater port.

§ 150.420 -- What actions must be taken when oil or natural gas transfer equipment is defective?

When any piece of equipment involved in transfer operations is defective--

(a) The piece of equipment must be replaced or repaired before making any further transfers; and

(b) The repaired or replaced piece must meet or exceed its original specifications.

§ 150.425 -- What are the requirements for transferring oil or natural gas?

No person may transfer oil through an OTS or natural gas through an NGTS unless the following occur:

(a) Before connecting the hose string to the vessel manifold at the start of each transfer operation, the hose string in use for that transfer operation must be visually examined and found to have no--

(1) Leakage;

(2) Loose covers;

(3) Kinks;

(4) Bulges;

(5) Soft spots; and

(6) Gouges, cuts, or slashes that penetrate the hose reinforcement.

(b) During each transfer operation, the hose string in use for that transfer operation must be visually examined for leakage.

(c) The vessel's mooring attachment to the SPM must be strong enough to hold in all expected conditions of surge, current, and weather.

(d) The transfer hoses must be long enough to allow the vessel to move to the limits of its mooring attachment to the SPM without placing strain on the hoses.

(e) Each transfer hose must be supported in a manner that prevents strain on its coupling.

(f) Each part of the OTS or NGTS necessary to allow the flow of oil or natural gas must be lined up for the transfer.

(g) Each part of the OTS or NGTS not necessary for the transfer operation must be securely blanked or shut off.

(h) Except when used to receive or discharge ballast, each overboard discharge or sea suction valve that is connected to the vessel's oil transfer, ballast, or cargo tank systems must be sealed, lashed, or locked in the closed position.

(i) Each connection in the OTS or NGTS must meet § 150.430.

(j) The discharge containment and removal material and equipment required by the deepwater port's response plan must be in place.

(k) Each scupper and overboard drain on the vessel must be closed.

(l) The drip pan under the vessel manifold, if applicable, must not overflow.

(m) The communications equipment required by 149.140 of this chapter must be tested and found operational for the transfer operation.

(n) The means of emergency shutdown must be in position and operative.

(o) The Cargo Transfer Supervisor, Cargo Transfer Assistant, and any other required personnel must be on duty and present to conduct the transfer operations according to the operations manual and the transfer procedures that apply to the vessel during transfer operations.

(p) The vessel's officer in charge of cargo transfers and the port's Cargo Transfer Assistant must have held a conference and each must understand the following details of the transfer operation:

(1) The identity of the product to be transferred.

(2) The sequence of transfer operations.

(3) The transfer rate.

(4) The name or title and location of each person participating in the transfer operation.

(5) The particulars of the transferring and receiving systems.

(6) The critical stages of the transfer operation.

(7) The Federal regulations that apply to the transfer of oil or natural gas.

(8) The emergency procedures.

(9) The discharge containment procedures.

(10) The discharge reporting procedures.

(11) The watch or shift arrangement, if applicable.

(12) The transfer shutdown procedures.

(q) The vessel's officer in charge of cargo transfers and Cargo Transfer Assistant must agree to begin the transfer operation.

(r) The flame screens must be structurally sound and securely fastened in place in all cargo tank vents and ullage holes on the vessel.

(s) The declaration of inspection required by 150.435 is completed.

§ 150.430 -- What are the requirements for connections to vessels?

(a) Except as set forth in subparagraph (c), the licensee must provide adapters that allow connection of the hose string to the vessel manifold. The

adapters must meet the design and material standards of any one of the following:

(1) American National Standards Institute (ANSI).

(2) British Standard (BS).

(3) German Standard (DIN).

(4) Japanese Industrial Standard (JIS).

(5) Universal Metric Standard.

(b) Each temporary connection between the hose string and a vessel manifold must meet the following:

(1) Be made using either--

(i) A bolted coupling; or

(ii) A quick-connect coupling acceptable to the Commandant (G-M).

(2) Have suitable materials in joints and couplings to make a tight seal.

(3) If using an ANSI-standard bolted flange coupling, have a bolt in at least every other hole of the coupling and in no case less than four bolts.

(4) If using a bolted flange coupling other than ANSI-standard coupling, have a bolt in each hole of the coupling.

(5) Have bolts in a bolted coupling that are all--

(i) The same size;

(ii) Tightened so they uniformly distribute the load around the coupling; and

(iii) Free of any signs of strain, elongation, or deterioration.

(6) Made and broken under the direct supervision of the Cargo Transfer Assistant.

(c) For proprietary connection systems, the licensee shall provide a certificate evidencing the compatibility of the connection system and the SPM.

§ 150.435 -- What are the requirements for a declaration of inspection?

(a) No person may transfer oil, natural gas or hazardous materials from a tanker to a deepwater port unless a declaration of inspection meeting 156.150(c) of this chapter has been filled out and signed by the vessel's officer in charge of cargo transfer and the Cargo Transfer Assistant or, in the case of an unmanned deepwater port, the person designated in the operations manual as authorized to sign such declaration.

(b) Before signing a declaration of inspection, the vessel's officer in charge of cargo transfer must inspect the tanker and the Cargo Transfer Assistant must inspect the deepwater port. They must indicate by initialing

each item on the declaration of inspection form that the tanker and deepwater port meet 156.150 of this chapter.

§ 150.440 -- When are oil or natural gas transfers not allowed?

(a) No person may transfer oil at a deepwater port--

(1) When the Port Superintendent is not on duty at the port;

(2) During an electrical storm in the port's vicinity;

(3) During a fire at the port, at the onshore receiving terminal, or aboard a vessel berthed at the port, unless the Port Superintendent determines that a transfer should be resumed as a safety measure;

(4) When there are not enough personnel and equipment at the port dedicated to contain and remove the discharges as specified in the port's response plan under part 154 of this chapter;

(5) By lighterage, except in bunkering operations, unless otherwise authorized by the COTP; or

(6) When the weather at the port does not meet the minimum operating conditions for transfers in the port's operations manual.

(b) No person may transfer natural gas at a deepwater port unless in compliance with the operations manual.

§ 150.445 -- How may the COTP order suspension of oil or natural gas transfers?

(a) In case of emergency, the COTP may order the suspension of transfers at a port to prevent the discharge, or threat of discharge, of oil or natural gas or to protect the safety of life and property.

(b) An order of suspension may be made effective immediately.

(c) The order of suspension must state the reasons for the suspension.

(d) The licensee may petition the District Commander in writing, or by any means if the suspension is effective immediately, to reconsider the order of suspension. The decision of the District Commander is considered final agency action.

§ 150.447 -- When is oil in an SPM-OTS displaced with water?

The Port Superintendent must ensure that the oil in an SPM-OTS is displaced with water and that the valve at the pipeline end manifold is closed whenever--

(a) A storm warning is received forecasting weather conditions that will exceed the design operating criteria listed in the operations manual for the SPM-OTS;

(b) A vessel is about to depart the SPM because of storm conditions; or

(c) The SPM is not scheduled for use in an oil transfer operation within the next 7 days.

Subpart G--Operations

§ 150.500 -- What does this subpart do?

This subpart concerns operations at a deepwater port.

150.505 -- How must emergency equipment be maintained and repaired?

All lifesaving, fire-fighting, and other emergency equipment required by Part 149 of this regulation at a manned deepwater port must be maintained and repaired according to 143.610 through 143.645 of this chapter. [*Note:* Sections 143.610 through 143.645 referred to in this paragraph are as proposed in *64 FR 68473-68475*, December 7, 1999.]

§ 150.510 -- How must emergency equipment be tested and inspected?

All lifesaving, fire-fighting, and other emergency equipment required by Part 149 at a deepwater port must be tested and inspected according to 143.710 through 143.765 of this chapter. [*Note:* Sections 143.710 through 143.765 referred to in this paragraph are as proposed in *64 FR 68474-68475*, December 7, 1999.]

§ 150.515 -- What may the fire main system be used for?

The fire main system may be used only for fire fighting and for deck washing.

§ 150.520 -- How many fire pumps on a pumping platform complex must be kept ready for use at all times?

At least one of the fire pumps required by this subchapter must be kept ready for use at all times.

§ 150.525 -- What are the requirements for connection and stowage of firehoses on a pumping platform complex?

(a) At least one length of firehose with a combination nozzle must be connected to each fire hydrant at all times. If in a location exposed to the weather, the firehose may be removed from the hydrant during freezing weather.

(b) When not in use, firehose connected to a fire hydrant must be stowed on a hose rack.

(c) If the edge of a platform deck is in an exposed location, the hydrant nearest that edge must have enough lengths of firehose connected to it to allow 10 feet (3 meters) of hose, when pressurized, to curve over the edge.

§ 150.530 -- What are the restrictions on fueling aircraft?

If the deepwater port is not equipped with a permanent fueling facility, the COTP's approval is necessary before aircraft may be fueled at the port.

§ 150.535 -- What are the requirements for the muster list on a pumping platform complex?

(a) A muster list must be posted on each pumping platform complex.

(b) The muster list must--

(1) List the name and title of each person, in order of succession, who is the person in charge of the pumping platform complex for purposes of supervision during an emergency.

(2) List the special duties and duty stations for each person on the pumping platform complex in the event of an emergency that requires the use of equipment covered by part 149 of this chapter; and

(3) Identify the signals for calling persons to their emergency stations and for abandoning the pumping platform complex.

Subpart H--Workplace Safety and Health

§ 150.600 -- What are the requirements for workplace safety and health?

The requirements for workplace safety and health in part 142 of this chapter must be complied with on each deepwater port. [*Note:* Part 142 referred to in this paragraph is as proposed in *64 FR 68457-68467,* December 7, 1999.]

Subpart I--Aids to Navigation

§ 150.700 -- What does this subpart do?

This subpart provides requirements for the operation of aids to navigation at a deepwater port.

§ 150.705 -- What are the requirements for the maintaining and inspecting aids to navigation?

(a) All required aids to navigation must be maintained in proper operating condition at all times.

(b) The Coast Guard may inspect all aids to navigation at any time without notice.

§ 150.710 -- What are the requirements for supplying power to aids to navigation?

The power to all aids to navigation must be maintained, at all times, at or above the level recommended by the equipment's manufacturer.

§ 150.715 -- What are the requirements for lights used as aids to navigation?

(a) Each light under part 149, subpart E, of this chapter required to be used as an aid to navigation at a deepwater port must be lit continuously from sunset to sunrise.

(b) During construction, a platform or floating SPM must be marked with at least one of the following:

(1) The obstruction lights required for the structure in part 149, subpart E, of this chapter.

(2) The fixed lights of a vessel attending the structure.

(3) The general illumination lights on the structure, if they meet or exceed the intensity required for obstruction lights required for the structure.

(c) The focal plane of each obstruction light and rotating lighted beacon must always coincide with the horizontal plane that passes through the light source.

§ 150.720 -- What are the requirements for fog signals?

(a) The fog signal on each pumping platform complex must be operated whenever the visibility in any horizontal direction from the structure is less than 5 miles (8 kilometers).

(b) If, during construction of a platform, the requirements in paragraph (a) of this section can not be met, a 2-second whistle blast made every 20 seconds by a vessel moored at the platform must be used instead of a fog signal.

Subpart J--Reports and Records

§ 150.800 -- What does this subpart do?

This subpart concerns reports that must be submitted, and records that must be kept, by the licensee.

Reports

§ 150.805 -- What reports must I send both to a classification society and to the Coast Guard?

A copy of each report submitted to ABS (or other classification society approved by the Coast Guard) for maintenance of an SPM's class under the rules of that society for the building and classing of SPM's must also be submitted the Commandant (G-M).

§ 150.810 -- How do I report a problem with an aid to navigation?

(a) Any problem affecting the operation or characteristics of an aid to navigation at the deepwater port must be reported, by the fastest means available, to the District Commander. The report must identify--

(1) The aid to navigation affected;

(2) The location of that aid;

(3) The nature of the problem; and

(4) The estimated time of repair.

(b) When the problem is corrected, the District Commander must be notified.

§ 150.815 -- How do I report a casualty?

(a) Immediately after aiding the injured and stabilizing the situation, the owner, operator, or person in charge of a deepwater port must notify the nearest Marine Safety Office, Coast Guard Activity, or Coast Guard Group Office of each event on or involving the deepwater port that results in one or more of the following:

(1) Death.

(2) Injury to five or more persons.

(3) Injury to a person requiring hospitalization for more than 48 hours within 5 days of the event.

(4) A fractured bone (other than in a finger, toe, or nose); a loss of a limb; severe hemorrhaging; severe damage to a muscle, nerve, or tendon; or damage to an internal organ.

(5) Impairment to the operation of any of the port's primary lifesaving or fire-fighting equipment.

(6) Property damage in excess of $ 100,000, including damage resulting from a vessel or aircraft striking the port. This amount includes the cost of labor and material to restore all affected items, including, but not limited to, the port and the vessel or aircraft to their condition before the damage. This amount does not include the cost of salvage, cleaning, gas freeing, drydocking, or demurrage of the port, vessel, or aircraft.

(b) The notice under paragraph (a) of this section must identify the following:

(1) The deepwater port involved.

(2) The owner, operator, or person in charge of the port.

(3) The nature and circumstances of the event.

(4) The nature and extent of the injury and damage resulting from the event.

§ 150.820 -- When must I submit a written report of casualty and what must it contain?

(a) In addition to the notice of casualty under 150.815, the owner, operator, or person in charge of a deepwater port must submit a written report of the event to the nearest OCMI within 10 days after the notice of casualty. The report may be on Form 2692 (Report of Marine Accident, Injury, or Death) or in narrative form if it contains all of the applicable information requested in Form 2692. Copies of Form 2692 are available from the OCMI.

(b) The written report must also include the information relating to alcohol and drug involvement specified by 46 CFR 4.05-12.

(c) If filed immediately after the event, the written report required by paragraph (a) of this section serves as the notice required under 150.815.

§ 150.825 -- How must I report a diving-related casualty?

Diving-related deaths and injuries within the safety zone of a deepwater port must be reported according to 46 CFR 197.484 and 197.486, rather than to 150.815 and 150.820.

§ 150.830 -- How must I report a pollution incident?

Oil pollution incidents involving a deepwater port are reported according to §§ 135.305 and 135.307 of this chapter.

§ 150.835 -- How must I report sabotage or a subversive activity?

The owner, operator, or person in charge of a deepwater port must immediately report to the COTP, by the fastest possible means, any evidence of sabotage or subversive activity against any vessel at the deepwater port or against the deepwater port itself.

Records

§ 150.840 -- What records must I keep?

(a) The licensee must keep copies at the deepwater port of the reports, records, test results, and operating data required by this part.

(b) The copies must be readily available to Coast Guard inspectors.

(c) Except for personnel records under 150.845, the copies must be kept for 3 years.

§ 150.845 -- What personnel records must I keep?

(a) The licensee of a manned deepwater port must keep documentation on the designation and qualification under subpart C(1) of this part of the following individuals:

(1) Port Superintendent.

(2) Cargo Transfer Supervisor.

(3) Cargo Transfer Assistant.

(4) Vessel Traffic Supervisor.

(5) Mooring Master.

(6) Assistant Mooring Master.

(b) The licensee of an unmanned deepwater port must keep documentation on the designation and qualification of those persons identified pursuant to subpart C(2) of this part and set forth in a licensee's operations manual

§ 150.850 -- How long must I keep a declaration of inspection form?

The licensee must keep signed copies of the declaration of inspection forms required by 150.435 for one month from the date of signature.

Subpart K--Safety Zones

§ 150.900 -- What does this subpart do?

(a) This subpart provides requirements for the establishment, restrictions, and location of safety zones around deepwater ports.

(b) Subpart D of this part, concerning vessel navigation and activities permitted and prohibited at deepwater ports, applies within safety zones and their adjacent waters and supplements the International Regulations for Preventing Collisions at Sea.

(c) Shipping safety fairways associated with deepwater ports are described in part 166 of this chapter.

§ 150.905 -- Why are safety zones established?

Safety zones under this subchapter are established to promote safety of life and property, marine environmental protection, and navigational safety at deepwater ports and adjacent waters. Safety zones accomplish these objectives by preventing or controlling specific activities, limiting access by vessels or persons, and by protecting the living resources of the sea from harmful agents.

§ 150.910 -- What installations, structures, or activities are prohibited in a safety zone?

No installations, structures, or activities that are incompatible with port operations are allowed in the safety zone of a deepwater port.

§ 150.915 -- How are safety zones established and modified?

(a) A safety zone is developed and designated during the application process for a deepwater port license and may be modified according to this section.

(b) Before a safety zone is established, all factors detrimental to safety, including the congestion of vessels, the presence of unusually harmful or hazardous substances, and the presence of obstructions around the site of the deepwater port, are considered.

(c) The District Commander may modify a safety zone by publishing a notice of proposed rulemaking in the Federal Register and providing an opportunity for public comment. After considering the comments, the District Commander may publish a final rule modifying the zone and its regulations.

(d) When there is an imminent threat to the safety of life and property within the zone, the District Commander may modify the safety zone and its regulations in an interim rule without first publishing a notice of proposed rulemaking. The interim rule makes the safety zone and its regulations effective on publication in the Federal Register and requests public comments. After considering the comments received, the District Commander publishes a final rule, which may adopt the interim rule with or without changes or remove it.

(e) If required by circumstances, safety zones may be placed into effect immediately but must be followed promptly by the procedures in paragraph (d) of this section.

§ 150.920 -- How am I notified of new or proposed safety zones?

In addition to documents published in the Federal Register under 150.915, the District Commander may provide public notice of new or proposed safety zones by Broadcast Notices to Mariners, Notices to Mariners, Local Notices to Mariners, newspapers, and broadcast stations, or other means.

§ 150.925 -- How long may a safety zone last?

A safety zone and its regulations may go into effect as early as when equipment and materials for construction of the deepwater port arrive at the zone and may remain in effect until the deepwater port is removed.

§ 150.930 -- What datum is used for the geographic coordinates in this subpart?

The geographic coordinates used in this subpart are not intended for plotting on charts or maps using coordinates based on the North American Datum of 1983 (NAD 83). If you use the geographic coordinates in this subpart to plot on a chart or map referencing NAD 83, you must make corrections as shown on the chart or map.

§ 150.935 -- What is the safety zone for LOOP?

(a) *Location.* The safety zone for the Louisiana Offshore Oil Port (LOOP) is as follows:

Table 150.155(A).--Safety Zone for Loop, Gulf of Mexico

Latitude N.	Longitude W.
(1) Starting at:	
28[degrees]55'23"	90[degrees]00'37"
(2) A rhumb line to:	
28[degrees]53'50"	90[degrees]04'07"
(3) Then an arc with a 4,465 meter (4,883 yard) radius centered at the port's pumping platform complex:	
28[degrees]53'06"	90[degrees]01'30"
(4) To a point:	
28[degrees]51'07"	90[degrees]03'06"
(5) Then a rhumb line to:	
28[degrees]50'09"	90[degrees]02'24"
(6) Then a rhumb line to:	
28[degrees]49'05"	89[degrees]55'54"
(7) Then a rhumb line to:	
28[degrees]48'36"	89[degrees]55'00"
(8) Then a rhumb line to:	
28[degrees]52'04"	89[degrees]52'42"
(9) Then a rhumb line to:	
28[degrees]53'10"	89[degrees]53'42"
(10) Then a rhumb line to:	
28[degrees]54'52"	89[degrees]57'00"
(11) Then a rhumb line to:	
28[degrees]54'52"	89[degrees]59'36"
(12) Then an arc with a 4,465 meter (4,883 yard) radius centered again at the port's pumping platform complex;	
(13) To the point of starting:	
28[degrees]55'23"	90[degrees]00'37"

(b) *Areas to be avoided.* The areas to be avoided within the safety zone are as follows:

(1) The area encompassed within a circle having a 600 meter radius around the port's pumping platform complex and centered at--

Latitude N.	Longitude W.
28[degrees]53'06"	90[degrees]-1'30"

(2) The six areas encompassed within a circle having a 500 meter radius around each single point mooring (SPM) at the port and centered at--

Latitude N.	Longitude W.
28[degrees]54'12"	90[degrees]00'37"
28[degrees]53'16"	89[degrees]59'59"
28[degrees]52'15"	90[degrees]00'19"
28[degrees]51'45"	90[degrees]01'25"
28[degrees]52'08"	90[degrees]02'33"
28[degrees]53'07"	90[degrees]03'02"

(c) *Anchorage area.* The anchorage area within the safety zone is enclosed by the rhumb lines joining points at--

Latitude N.	Longitude W.
28[degrees]52'21"	89[degrees]57'47"
28[degrees]54'05"	89[degrees]56'38"
28[degrees]52'04"	89[degrees]52'42"
28[degrees]50'20"	89[degrees]53'51"
28[degrees]52'21"	89[degrees]57'47"

ATTACHMENT B

33 CFR Parts 148, 149, and 150
Deepwater Ports
67 FR 37920

PART 148--DEEPWATER PORTS: GENERAL
SUBCHAPTER NN--DEEPWATER PORTS

Subpart A--General

Authority: *33 U.S.C. 1504;* 49 CFR 1.46.

Subpart A--General

148.1 -- What is the purpose of this subchapter?

This subchapter prescribes regulations for the licensing, construction, design and equipment, and operation of deepwater ports under the Deepwater Port Act of 1974, as amended *(33 U.S.C. 1501*-1524) (the Act).

148.2 -- Who is responsible for carrying out this subchapter?

Unless otherwise specified, the owner of a deepwater port must ensure that the requirements of this subchapter are carried out at that port.

148.3 -- What Federal agencies are responsible for carrying out the Deepwater Port Act?

Under 49 CFR 1.46(s), the Coast Guard is authorized to do the following:

(a) To process applications for the issuance, transfer, or amendment of licenses for deepwater ports in coordination with the Administrator of the Maritime Administration; and

(b) To carry out the functions and responsibilities vested in the Secretary of Transportation by the Act, except for those--

(1) Reserved by the Secretary of Transportation under 49 CFR 1.44(o) (authority to issue, transfer, and amend a license);

(2) Delegated to the Administrator of the Maritime Administration under 49 CFR 1.66(aa) (approval of fees charged by adjacent coastal States and certain matters relating to international policy, civil actions, and suspension or termination of licenses); and

(3) Delegated to the Administrator of the Research and Special Programs Administration under 49 CFR 1.53(a)(3) (pipelines).

148.5 -- How are terms used in this subchapter defined?

(a) Quotation marks around terms in this section mean that those terms are defined in this section.

(b) As used in this subchapter--

Act means the Deepwater Port Act of 1974, as amended *(33 U.S.C. 1501*-1524).

Adjacent coastal State means any "coastal State" that--

(1) Would be directly connected by pipeline to a "deepwater port";

(2) Would be located within 15 miles of a "deepwater port"; or

(3) Is designated as an "adjacent coastal State" by the Secretary of Transportation under *33 U.S.C. 1508*(a)(2).

Administrator of the Maritime Administration means the Associate Administrator, Port, Intermodal and Environmental Activities, Maritime Administration, or that individual's authorized representative, at 400 Seventh Street SW., Washington, DC 20590, telephone 202-366-4721.

Affiliate means a "person"--

(1) That has an ownership interest, direct or indirect, of more than 3 percent in an "applicant";

(2) That offers to finance, manage, construct, or operate the "applicant's" "deepwater port" to any significant degree;

(3) That owns or "controls" an "applicant" or an entity under paragraphs (1) or (2) of this definition; or

(4) That is owned or "controlled" by, or under common ownership with, an "applicant" ~~or~~and is an entity under paragraphs (1), (2), or (3) of this definition.

Applicant means a "person" that is the owner of a proposed deepwater port and that is applying for a license under this part for that port.

Application means an application submitted under this part for a license to own, construct, and operate a deepwater port.

Approval series means the first six digits of a number assigned by the Coast Guard to approved equipment. Where approval is based on a subpart of 46 CFR chapter I, subchapter Q, the approval series corresponds to the number of the subpart. A list of approved equipment, including all of the approval series, is available at *http://www.uscg.mil/hq/g-m/mse/equiplistexpl.htm*. The last printed version of the list, current only up through 1994, is published in COMDTINST M16714.3 (Series), Equipment List, and is available from

Superintendent of Document, P.O. Box 371954, Pittsburgh, PA 15250, or by phone at 202-512-1800.

Approved means approved by the "Commandant (G-M)".

Barrel means 42 U.S. gallons (159 liters) at atmospheric pressure and 60[deg] Fahrenheit (16[deg] Celsius).

British Thermal Unit ("Btu") means the quantity of heat required to raise the temperature of one (1) pound avoirdupois of pure water from fifty-eight and five-tenths degrees Fahrenheit (58.5F) to fifty-nine and five-tenths degrees Fahrenheit (59.5F) at a constant pressure of fourteen and seventy-three hundredths pounds per square inch absolute (14.73 psia).

Captain of the Port or *COTP* means a Coast Guard officer who commands a Captain of the Port zone described in part 3 of this chapter and who is immediately responsible for enforcing port safety and security and marine environmental protection regulations within that area.

Citizen of the United States means--

(1) An individual who is a United States citizen by law, birth, or naturalization;

(2) A "State";

(3) An agency of a "State" or a group of "States"; or

(4) A corporation, partnership, or association--

(i) That is organized under the laws of a "State" or the United States;

(ii) That has, as its president or other executive officer, an individual who is a United States citizen by law, birth, or naturalization;

(iii) That has, as its chairman of the board of directors or holder of a similar office, an individual who is a United States citizen by law, birth, or naturalization; and

(iv) That has at least the number of directors required for a quorum necessary to conduct the business of the board who are United States citizens by law, birth, or naturalization.

Coastal environment means the navigable waters (including the lands in and under those waters), internal waters, and the adjacent shorelines (including waters in and under those shorelines). The term includes transitional and inter-tidal areas, bays, lagoons, salt marshes, estuaries, and beaches; the fish, wildlife, and other living resources of those waters and lands; and the recreational and scenic values of those lands, waters, and resources.

Coastal State means a State of the United States in or bordering on the Atlantic, Pacific, or Arctic Oceans or the Gulf of Mexico.

Commandant (G-M) means the Assistant Commandant for Marine Safety, Security and Environmental Protection, or that individual's authorized representative,

at Commandant (G-M), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001.

Construction means the supervising, inspection, actual building, and all other activities incidental to the building, repairing, or expanding of a "deepwater port" or any of its components. The term includes, but is not limited to, pile driving and bulkheading and alterations, modifications, or additions to the "deepwater port".

Control means the power, directly or indirectly, to determine the policy, business practices, or decision-making process of another "person", whether by stock or other ownership interest, by representation on a board of directors or similar body, by contract or other agreement with stockholders or others, or by other means.

Crude Oil means a mixture of hydrocarbons that exist in the liquid phase in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities and includes--

(1) Liquids technically defined as crude oil;

(2) Small amounts of hydrocarbons that exist in the gaseous phase in natural underground reservoirs but are liquid at atmospheric pressure after being recovered from oil well (casing head) gas in lease separators; and

(3) Small amounts of non-hydrocarbons produced with the oil.

(4) Notwithstanding the foregoing provisions, the term "crude oil" shall not apply to any hydrocarbons present in "natural gas" that is imported and regasified.

Deepwater port means a fixed or floating man-made structure (other than a "vessel" or any equipment permanently affixed to a vessel, including "regasification equipment" located on board a vessel), or a group of structures, located beyond the territorial sea and off the coast of the United States and that are used, or intended for use, as a port or terminal for the transportation, storage, and further handling of oil or natural gas for transportation to any "State" (except as otherwise provided in *33 U.S.C. 1522)*, and for other uses not inconsistent with the purposes of this subchapter, including transportation of oil or natural gas from the United States Outer Continental Shelf. The term includes a "single point mooring" buoy or buoys and "single point mooring natural gas transfer system". The term also includes all associated components and equipment, including pipelines, "regasification equipment" located on the fixed or floating man-made structure, compressors, dehydration equipment, metering facilities and metering platforms, pumping stations, service platforms, mooring lines, anchor lines, buoys, and similar appurtenances which are proposed and/or approved for construction and operation as part of the deepwater port, to the extent they are located seaward of the high water mark; provided, however, that any downstream interconnecting pipelines and appurtenant facilities for which the port owner or operator or any other person obtains separate authorization

under the Natural Gas Act, at 15 U.S.C. 717 et seq., or under any other applicable state or federal statute, will be deemed not included within the definition of the "deepwater port" for the purposes of determining jurisdiction under the "Act".

District Commander means an officer who commands a Coast Guard District described in part 3 of this chapter or that individual's authorized representative.

Flexible riser means a multi-layered flexible pipeline used to connect a floating structure or "single point mooring" buoy to a "pipeline end manifold".

Governor means the Governor of a "State" or the "person" designated by State law to exercise the powers granted to the Governor under the Act.

Gross under-keel clearance means the distance between the keel of a tanker and the ocean bottom when the tanker is moored or anchored in calm water free of wind, current, or tide conditions that would cause the tanker to move.

Hose string means the part of a "single point mooring oil transfer connection" made out of flexible hose of the floating or float/sink type that connects the tanker's manifold to the "single point mooring".

Lease block means an area established either by the Secretary of the Interior under section 5 of the Outer Continental Shelf Lands Act *(43 U.S.C. 1334)* or by a State under section 3 of the Submerged Lands Act *(43 U.S.C. 1311)*.

License means a license issued under this part to own, construct, and operate a "deepwater port".

Licensee means a citizen of the United States holding a valid license for the ownership, construction, and operation of a deepwater port that was issued, transferred, or renewed under this subchapter.

Mcf means one thousand (1,000) cubic feet.

MMcf means one million (1,000,000) cubic feet.

MMBtu means one million (1,000,000) Btus.

Mscf means one thousand (1,000) cubic feet at standard conditions of 60 degrees Fahrenheit and 14.7 pounds per square inch.

MMscf means one million (1,000,000) cubic feet at standard conditions of 60 degrees Fahrenheit and 14.7 pounds per square inch.

Manned deepwater port means any "deepwater port" on which people are routinely accommodated for more than 12 hours in successive 24 hour periods.

Marine environment includes the "coastal environment", waters of the contiguous zone, the exclusive economic zone, and the high seas; the fish,

wildlife, and other living resources of those waters; and the recreational and scenic values of those waters and resources.

Messenger line means a line floating on the surface of the water and used to assist in the retrieval of a submerged turret mooring buoy, including all markers, lights and appurtenances connect to the floating line.

Natural Gas means either natural gas unmixed, or any mixture of natural gas, including compressed or liquefied natural gas.

Net under-keel clearance means the distance between the keel of a tanker and the ocean bottom when the tanker is underway, anchored, or moored and subject to actual wind, waves, current, and tide motion.

Officer in Charge, Marine Inspection, or *OCMI* means an individual who commands a Marine Inspection Zone described in part 3 of this chapter and who is immediately responsible for the performance of duties with respect to inspections, enforcement, and administration of regulations governing a "deepwater port".

Oil means petroleum, crude oil, and any substance refined from petroleum or crude oil.

PAD District means one of the five Petroleum Administration for Defense Districts defined by the Energy Information Administration (EIA), Department of Energy, in their Petroleum Supply publications and U.S. Refinery Operations information available from the EIA at Energy Information Administration, National Energy Information Center, 1000 Independence Avenue SW., Washington, DC 20585 or at *http://www.eia.doe.gov/oil-gas/petroleum/pet-frame.html*.

Person means an individual, corporation, partnership, limited liability partnership, limited liability company, association, joint venture, or trust arrangement and includes a trustee, beneficiary, receiver, or similar representative of any of them.

Personnel means individuals who are employed by licensees, operators, contractors, or subcontractors and who are on a "deepwater port" by reason of their employment.

Pipeline end manifold means the pipeline end manifold at a "single point mooring". at which the flexible riser, from the "single point mooring" buoy to the seabed, is connected to the fixed subsea pipeline which transports the "oil" or "natural gas" to the shore.

Platform means a fixed structure that rests on, is attached to, or is embedded in the seabed and that ~~has~~may have floors or decks where an activity or specific function may be carried out, but does not include floating or fixed "single point mooring" buoys.

Production District means the States of Louisiana, New Mexico, and Texas and each district within those states for which the Energy Information Administration (EIA), Department of Energy, separately reports production of crude oil.

Pumping platform complex means a "platform" or a series of interconnected "platforms" with the exception of a series of interconnected "single point mooring" buoys or an "unmanned port", that have one or more of the following features or capabilities:

(1) Can pump oil or natural gas between a "vessel" and facilities, either onshore or offshore, that are not subject to the ~~shore~~"Act".

(2) Can handle the mooring and loading of small "vessels".

(3) Have berthing and messing facilities.

(4) Have a landing area for helicopters.

Refining District means a refining district as defined by the Energy Information Administration (EIA), Department of Energy, for reporting refining operations. The refining districts are subsidiaries of "PAD Districts" and can be found listed in EIA's Petroleum Supply publications and U.S. Refinery Operations information available from the EIA at Energy Information Administration, National Energy Information Center, 1000 Independence Avenue SW., Washington, DC 20585 or at *http://www.eia.doe.gov/oil-gas/petroleum/pet-frame.html*.

Regasification equipment means any facilities, whether located on a fixed or floating manmade structure or aboard a vessel, necessary to convert liquefied natural gas to a gaseous state.

Safety zone means ~~the~~a safety zone of a size determined to be appropriate by the Coast Guard and established around a "deepwater port" ~~under part~~for purposes of navigational safety and that is designated in Appendix A to Part 150, ~~subpart J, of~~ this chapter.

Single point mooring or *SPM* means ~~an~~a fixed or floating offshore berth or mooring attachment, including SPM buoys, that links an undersea pipeline to a tanker moored to the mooring and provides for safe mooring of the tanker and allows for the transfer of oil or natural gas between the tanker and the pipeline.

Single point mooring-oil transfer system or *SPM-OTS* means the part of the oil transfer system from the "pipeline end manifold" to the end of the "hose string" that connects to the tanker's manifold.

Single point mooring natural gas transfer system, or *SMP-NGTS*, means the part of the natural gas transfer system that extends from the "SPM" buoy through the "flexible riser" and continues through the pipeline end manifold and including pipelines that are part of the "deepwater port".

State includes each of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

Support vessel means a--

(1) Tug;

(2) Linehandling boat;

(3) Crewboat;

(4) Supply vessel;

(5) Bunkering vessel;

(6) Barge; or

(7) Other similar ~~vessel~~vessels working for a licensee at a deepwater port or cleared by a licensee to service a tanker calling at a deepwater port.

Survival craft means a craft capable of sustaining the lives of persons in distress after abandoning a port. The term includes lifeboats, life rafts, buoyant apparatus, survival capsules, and life floats. The term does not include "rescue boats," unless the "rescue boats" are also "approved" as lifeboats.

Tanker means a vessel that calls at a "deepwater port" to unload oil or "natural gas" at a "single point mooring~~.~~".

Unmanned deepwater port means any deepwater port other than a "manned deepwater port".

Vessel means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on or through the water.

148.10 -- How can I get a copy of a publication referenced in this subchapter?

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under *5 U.S.C. 552*(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the Federal Register; and the material must be available to the public. All approved material is available for inspection at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC, and at the U.S. Coast Guard, Office of Operating and Environmental Standards, 2100 Second Street SW., Washington, DC 20593-0001, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this subchapter and the sections affected are as follows:

American Bureau of Shipping (ABS)

ABS Technical Publications, 16855 Northcase Drive
Houston, TX 77060

Rules for Building and Classing Single Point Moorings, 1996 — 149.650, 150.405

ABS Guide for Building and Classing Offshore LNG Terminals (May 2002)

American National Standards Institute (ANSI)

11 West 42nd Street, New York, NY 10036, or on the Internet at http://www.ansi.org

ANSI B31.4-98, Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids, 1998 edition — 149.625

American Petroleum Institute (API)

Order Desk, 1220 L Street, NW, Washington, DC, 20005-4070, or on the Internet at http://www.api.org

API *RP 2A*-WSD, Working Stress Design, Twentieth Edition, December, 2000 — 149.625

API *RP 2A*-LRFD, Load and Resistance Factor Design, First Edition, February, 1997 — 149.625

API *RP 2L*, Recommended Practice for Planning, Designing and Constructing Heliports for Fixed Offshore Platforms, May 1996 — 149.625

API RP T-1, Orientation Programs for Personnel Going Offshore for the First Time, Fourth Edition, October 1995 — 150.250

API RP T-4, Training of Offshore Personnel in Non-operating Emergencies, Second Edition, November 1995 — 150.250

API RP T-7, Training of Personnel in Rescue of Persons in Water, Second Edition, October 1995 — 150.250

API-RP-75, Recommended Practice for Development of a Safety and Environmental Management Program for Outer Continental Shelf (OCS) Operations and Facilities, 1998 ed.

American Society of Mechanical Engineers (ASME)

3 Park Avenue, New York, NY 10016-5990

Boiler and Pressure Vessel Code, sections I, IV, and VIII, 2001 edition — 149.625

International Association of Marine Aids to Navigation and Lighthouse Authorities (AISM/IALA)

20 ter, rue Schnapper, 78100 Saint Germain en Laye, France

Recommendations for the Colours of Light Signals on — 149.525

Aids to Navigation	
Recommendations on the Determination of the Luminous Intensity of a Marine Aid to Navigation Light, December 1977	149.521

National Fire Protection Association (NFPA)

Secretary, Standards Council, National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101.	
NFPA 72, National Fire Alarm Code[reg], 1999 Edition	149.405
NFPA 407, Standard for Aircraft Fuel Servicing, 1999 Edition	149.655
~~Edition~~NFPA 59A, Standard for the Production, Storage and Handling of Liquified Natural Gas (LNG), 2001 ed.	

Underwriters Laboratories, Inc. (UL)

Available from: Global Engineering Documents, 15 Inverness Way East, Englewood, CO 80112; telephone 800-854-7179	
UL 19 Lined Fire Hose and Hose Assemblies, 2001	149.425
UL Hazardous Location Equipment Directory, 2001, Portable Lighting Units	149.645

Subpart B--Application for a License

148.100 -- What is the purpose of this subpart?

This subpart describes how to apply for a license to own, construct, and operate a deepwater port.

148.105 -- What must I include in my application?

Your application must include the following:

(a) *The identity of the applicant and its affiliates and consultants.* (1) The name, address, telephone number, citizenship, and principal business activity of the applicant and ~~its affiliates~~each affiliate that will participate directly in the financing, management, design, construction, operation or use of the deepwater port.

(2) The name, address, and principal business activity of each subsidiary or division of the applicant or its affiliates that participated directly in the decision to apply for a license to build a deepwater port.

(3) A description of ~~how~~ each affiliate ~~is associated with the applicant~~that will participate directly in the financing, management, design,

construction, operation or use of the deepwater port and ~~of~~ the ownership interest of each such affiliate ~~has~~ in the applicant.

(4) A list of corporate officers and directors of the applicant and each affiliate that participated directly in the decision to apply for a license to build a deepwater port.

(5) A statement on the history of the applicant and affiliates that will participate directly in the financing, management, design, construction, operation or use of the deepwater port for the last 5 years, including whether they filed for bankruptcy and if so the dates, the disposition and any reorganization that may have resulted; whether there have been any violations of state or federal laws~~,~~ and ~~whether there is~~ any outstanding litigation that could have a material adverse effect on the applicant's ability to finance, construct or operate a deepwater port.

(6) A declaration regarding lobbying activities on behalf of either the applicant or an affiliate that will participate directly in the financing, management, design, construction, operation or use of the deepwater port under *31 U.S.C. 1352*.

(b) *Experience in matters relating to deepwater ports*. (1) A description of the experience of the applicant, its "affiliates", and its consultants in offshore operations, particularly operations involving the transfer and storage of liquid cargo , natural gas and the loading and unloading of vessels.

(2) For each affiliate with which the applicant has made a significant contract for the design or construction of any part of the deepwater port, a description of that affiliate's experience in design or construction of marine terminal facilities, offshore structures, underwater pipelines, and seabed foundations and a description of other experiences that would bear on the affiliate's qualification to participate in the construction of a deepwater port.

(c) *The identity of each engineering firm, if known, that will design the deepwater port or a portion of the port*. The firm's--

(1) Name;

(2) Address;

(3) Citizenship;

(4) Telephone number; and

(5) Qualifications.

(d) *Information on citizenship, incorporation, and authority of the applicant*.

If the applicant is applying as--	Then the applicant must submit--

(1) An individual, a group of individuals, or a partnership	An affidavit from each individual stating that each is a citizen of the United States of America.
(2) A corporation	One copy of the charter signed by the Secretary of State or authorized official of the State of incorporation and one copy of the corporate by-laws certified by the corporation's secretary or assistant secretary.
(3) A State or combination of States or any political subdivision, agency, or instrumentality of a State, including a wholly owned corporation	A copy of the State laws authorizing the operation of a deepwater port.
(4) A Limited Liability Company	Article of organization and any related amendments.

(e) *Address for service of documents*. The name and address of one individual who may be served with documents in case a formal hearing is held concerning the application, and the name and address of one individual who may receive other documents.

(f) *Location and use*. The proposed location and capacity of the deepwater port and a general description of the anticipated use of the port.

(g) *Financial information*. (1) For the applicant and each affiliate that will participate directly in the financing, management, construction, operation or use of the deepwater port--

(i) Annual financial statements, on an individual or consolidated basis, audited by an independent certified public accountant, for the previous 3 years, including, but not limited to, an income statement, balance sheet, and cash flow statement with footnote disclosures prepared according to U.S. Generally Accepted Accounting Principles; and

(ii) Interim income statements and balance sheets for each quarter, unless included in the most recent annual financial statement, that ends at least 30 days before submission of the application.

(2) An estimate of construction costs, including--

(i) A phase-by-phase breakdown of costs;

(ii) The estimated completion dates for each phase; and

(iii) A detailed estimate of the cost of removing all of the marine components of the deepwater port, other than pipelines that lie beneath the seabed, when operations at the port cease.

(3) Annualized projections or estimates of each of the following, along with the underlying assumptions, for the next 5 years and at reasonable intervals throughout the life of the deepwater port:

(i) Total oil or natural gas throughput and subtotals showing throughput owned by the applicant and its affiliates and throughput owned by others.

(ii) Projected financial statements, including a balance sheet and income statement.

(iii) Annual operating expenses, showing separately any payment made to an affiliate for any management duties carried out in connection with the operation of the deepwater port.

(4) A copy of all proposals or agreements concerning the management and financing of the deepwater port, including agreements relating to throughputs, capital contributions, loans, guarantees, commitments, charters, and leases.

(5) To the extent known to the applicant or its affiliates~~, the anticipated--~~

(i) For oil, the anticipated--

(~~i~~A) Total refinery capacity;

(~~ii~~B) Total runs to stills; and

(~~iii~~C) Total demand for gasoline, jet aviation fuel, distillate fuel oils, and other refinery products for each Refining District in the PAD where oil from the deepwater port will be landed, at reasonable intervals throughout the expected useful life of the deepwater port.

(ii) For natural gas, the anticipated

(A) Annual and daily quantities capable of being received at the deepwater port;

(B) Total amount of annual and daily capacity anticipated to be used.

~~(~~h) *Construction contract and studies.* (1) A copy of each contract that the applicant made for the construction of any component of the deepwater port or for the operation of the port.

(2) A listing and abstract of--

(i) All completed or ongoing studies on deepwater ports conducted by or for the applicant; and

(ii) All other related studies used by the applicant.

(i) *Compliance with Federal water pollution requirements.* (1) Evidence that the requirements of section 401(a)(1) of the Federal Water Pollution Control Act Amendments of 1972, *33 U.S.C. 1341*(a)(1), will be satisfied.

(2) In those cases where certification under *33 U.S.C. 1341*(a)(1) must be obtained from the Administrator of the Environmental Protection Agency, the request for certification.

(j) *Coastal zone management.* Each certification required by section 307 of the Coastal Zone Management Act of 1972, as amended *(16 U.S.C. 1456)*.

(k) *Identification of lease block.* (1) Identification of each lease block where any part of the proposed deepwater port or its approaches is located. This identification should be made on Official Outer Continental Shelf Leasing Maps or Protraction diagrams, where they are available. For each lease block, provide the following:

(i) A description of each pipeline, or other right-of-way crossing, in enough detail to allow plotting of the rights-of-way to the nearest one-tenth of a second in latitude and longitude.

(ii) The identity of the lessee of each pipeline or other right-of-way.

(2) Detailed information concerning any interest that anyone, including the applicant, has in each block; and

(3) Detailed information concerning the present and planned use of each block.

(l) *Overall site plan.* Single-line drawings showing the location and type of each component of the proposed deepwater port and its necessary facilities constructed and operated pursuant to the Act, including--

(1) Floating structures;

(2) Fixed structures;

(3) Aids to navigation;

(4) Manifold systems; and

(5) Onshore storage areas, pipelines, and refineries.

(m) *Site plan for marine components.* A site plan consisting of the following:

(1) The proposed size and location of all--

(i) Fixed and floating structures;

(ii) SPM swing circles;

(iii) Maneuvering areas;

(iv) Requested security zones

(~~iv~~v) Recommended ships' routing measures and proposed vessel traffic patterns in the port area;

(~~v~~vi) Recommended anchorage or mooring areas for oil or natural gas vessels;

(~~vi~~vii) Recommended mooring areas for support vessels;

(~~vii~~viii) Required and recommended aids to navigation; and

(~~viii~~ix) Pipelines and cables within the marine site.

(2) The charted water depth throughout the proposed marine site, as verified by the reconnaissance hydrographic survey in paragraph (m)(3) of this section.

(3) A reconnaissance hydrographic survey of the proposed marine site. A requirement to submit an engineering hydrographic survey of the final marine site will be imposed as a condition in the license.

(n) *Soil data*. An analysis of the general character and condition of the ocean bottom, sub-bottom, and upland soils throughout the marine site and along the path of the pipeline to the shore and onshore. The analysis must include an opinion by a registered professional engineer specializing in soil mechanics concerning--

(1) The suitability of the soil to accommodate the anticipated design load of each marine component that will be fixed to or supported on the ocean floor;

(2) The stability of the seabed when exposed to the environmental forces resulting from severe storms or lesser forces that occur over time, including any history of accretion or erosion of the coastline near the marine site.

(o) *Operational information*. (1) The maximum length, draft, and deadweight tonnage of the tankers to be accommodated at each SPM.

(2) Calculations, with supporting data and other documentation, to show that the charted water depth at each proposed SPM location is sufficient to provide at least a net under-keel clearance of 5 feet (1.5 meters) for each tanker that the applicant expects to be accommodated at the SPM.

(3) A detailed description of the manner of forecasting the wind, wave, and current conditions described in the draft operations manual during which the following would occur:

(i) Shutdown of ~~oil~~ transfer operations.

(ii) Departure of the tanker from the mooring.

(iii) Prohibition on mooring to an SPM.

(iv) Shutdown of all operations and evacuation of the port.

(4) The speed limits proposed for tankers in the safety zone around the proposed port.

(p) *Data on floating components*. (1) A description and preliminary design drawing of each floating component, including the hoses, anchoring or securing structure, and navigation lights if the component is a non-submerged mooring buoy.

(2) The design criteria, developed under part 149 of the chapter, to which each floating component will be designed and built.

(3) The design standards and codes to be used.

(4) The title of each recommended engineering practice to be followed.

(5) A description of safety, fire fighting, and pollution prevention equipment to be used on each floating component.

(6) A description of lighting to be used on floating hoses for night detection.

(q) *Data on fixed offshore components, including submerged SPM buoys*. (1) A description and preliminary design drawing for each fixed offshore component.

(2) The applicable design criteria, developed under part 149 of the chapter, to which each fixed offshore component will be designed and built.

(3) The design standards and codes to be used.

(4) The title of each recommended engineering practice to be followed.

(5) A description and the results of any design and evaluation studies performed by or for the applicant for any fixed offshore component and used in the development of the application.

(6) A description of the following equipment to be installed, where applicable:

(i) Navigational lighting.

(ii) Safety equipment.

(iii) Lifesaving equipment.

(iv) Fire fighting equipment.

(v) Pollution prevention and removal equipment.

(vi) Waste treatment equipment.

(7) A description and preliminary design drawing of the following:

(i) The oil ~~pumping~~ or natural gas transfer equipment.

(ii) The piping system.

(iii) The control and instrumentation system.

(iv) Any associated equipment, including oil or natural gas-throughput-measuring equipment, leak-detection equipment, emergency-shutdown equipment, and the alarm system.

(8) The personnel capacity of each pumping platform complex.

(r) *Data on offshore pipelines*. (1) A description and preliminary design drawing of the marine pipeline, including--

(i) Size;

(ii) Throughput capacity;

(iii) Length;

(iv) Depth; and

(v) Protective devices.

(2) The design criteria to which the marine pipeline will be designed and built.

(3) The design standards and codes to be used.

(4) The title of each recommended engineering practice to be followed.

(5) A description of the metering system to be used to measure flow rate.

(6) Information concerning all submerged or buried pipelines that will be crossed by the offshore pipeline and how each crossing will be made.

(s) *Data on onshore components.* (1) A description of the location, capacity, and ownership of all planned and existing onshore pipelines, storage facilities, refineries, petrochemical facilities, and transshipment facilities, sufficient to demonstrate access to markets, that will be served by the deepwater port.

(a) A deepwater oil port serves a facility if the facility is within a PAD District for which information is required under paragraph (g)(5) of this section and is either served by connection to a common carrier pipeline or to a component or auxiliary of a common carrier pipeline. Crude oil gathering lines and lines wholly within a facility must be included in data on onshore components only if specifically required under paragraph (cc) of this section. Entry points and major connections between lines and with bulk purchasers must be included.

(b) A deepwater natural gas port serves a facility if it interconnects with a natural gas gathering system, an interstate or intrastate natural gas pipeline, natural gas storage facilities, a local distribution company or facilities that consume natural gas.

(2) A chart showing the location of all planned and existing--

(i) Onshore pipelines;

(ii) Storage facilities;

(iii) Refineries;

(iv) Petrochemical facilities; and

(v) Transshipment facilities to be served by the deepwater port.

(3) ~~The~~ For deepwater oil ports, the throughput reports for the calendar year preceding the date of the application for the applicant and each of the

applicant's affiliates engaged in producing, refining, or marketing oil, along with a copy of each existing or proposed throughput agreement. Each throughput report must list the throughput of the following products:

(i) Crude oil.

(ii) Gasoline.

(iii) Jet aviation fuel.

(iv) Distillate fuel oils.

(v) Other refinery products.

(t) *Data on miscellaneous components.* (1) A description of the communications systems to be used in operation of the deepwater port.

(2) A description of the radar navigation system to be used in operation of the deepwater port to include--

(i) The type of radar;

(ii) The characteristics of the radar; and

(iii) The antenna location.

(3) A description of the method to be used for bunkering vessels using the deepwater port.

(4) Type, size, and number of vessels to be used in bunkering, mooring, and servicing the vessels using the deepwater port.

(5) A description and exact location of shore-based support facilities, if any, to be provided for vessels described in paragraph (t)(4) of this section.

(u) *Construction procedures.* A description of the method and procedures to be used in constructing each component of the deepwater port, including anticipated dates of completion for each specific component for each phase of construction.

(v) *Operations manual.* A draft of the operations manual for the proposed port containing the information under § 150.15 of this chapter. If the information required for the manual is not available, state why it is not and when it will be available.

(w) *Environmental impact analysis.* An analysis, as required by the National Environmental Policy Act, of the potential for impacts on the natural and human environments, including evidence of compliance with all applicable environmental laws. See appendix A to this part.

(x) *Aids to navigation.* (1) For each proposed aid to navigation, the proposed position of the aid described by latitude and longitude coordinates to the nearest second or tenth of a second as determined from the largest scale chart of the area in which the aid is to be located. Specify latitude and longitude to a level obtained by visual interpolation between the finest graduation of the latitude and longitude scales on the chart.

(2) For each proposed obstruction light and rotating lighted beacon--

(i) The color;

(ii) Characteristic;

(iii) Effective intensity (See § 149.521 of this chapter.);

(iv) Height above water; and

(v) General description of illumination apparatus.

(3) For each proposed fog signal on a structure, a general description of the apparatus.

(4) For each proposed buoy--

(i) The shape;

(ii) The color;

(iii) The number or letter;

(iv) The depth of water in which located; and

(v) A general description of any light or fog signal apparatus on the buoy~~.~~, when applicable.

(5) For the proposed radar beacon (RACON), height above water and a general description of the apparatus.

(y) *Telecommunications equipment.* A description of each radio station or other communications facility to be used during construction and operation of the deepwater port, when applicable, and their proposed concept of operation.

Note to paragraph (y): When applying for a Federal Communication Commission (FCC) license for these communications facilities, you may submit the application directly to the FCC when sufficient technical information is available to meet the rules of that agency. The holding of the appropriate FCC licenses is a condition on a deepwater port license.

(z) *National Pollutant Discharge Elimination System (NPDES).* To the extent available, the information prescribed by, and submitted on, the NPDES Application for Permit to Discharge, Short Form D, for applying for a discharge permit from the Environmental Protection Agency (EPA). If complete information is not available by the time the Secretary of Transportation must either approve or deny the application for a designated application area under *33 U.S.C. 1504*(i)(1), the license for the deepwater port is conditioned upon the applicant receiving the required discharge permit from the EPA before the start of any discharge requiring such a permit.

(aa) *Placement of structures and the discharge of dredged or fill material.* The information prescribed on the application for a Department of Army permit for placement of structures and the discharge of dredged or fill material.

(bb) *Additional Federal authorizations.* All other applications for Federal authorizations not listed elsewhere in this subpart that are required for ownership, construction, and operation of a deepwater port.

(cc) *A statement that the information in the application is true.* This statement must be placed at the end of the application, sworn to before a notary public, and signed by a responsible official of the applicant.

§ 148.107 -- What additional information may be required?

(a) The Commandant (G-M), in coordination with the Administrator of the Maritime Administration, may require the applicant or the applicant's affiliates to file, as a supplement to the application, any analysis, explanation, or detailing of information in the application or any other information the Commandant (G-M) deems necessary.

(b) The applicant must identify the locations where the applicant and its affiliates have filed documents relating to deepwater ports that were prepared within 4 years of the date of the application for a license and that fall under one or more of the following categories:

(1) Prepared by or for, or submitted to, a Board of Directors or an executive, management, or planning committee.

(2) Concern the financing of construction or operation of a deepwater port, including throughput nominations and membership in and financing of any existing or proposed joint venture.

(3) Concern existing, proposed, or anticipated rates or joint rates.

(4) Determined by the Commandant (G-M) to be required to review and process the application.

(c) The application must identify the location of documents under paragraph (a) of this section. The Commandant (G-M) may require the documents to be consolidated into one or more locations.

(d) The Commandant (G-M) makes the documents under this section available for copying and inspection under § 148.207. Any claim of privilege or immunity with respect to any document required under this section must comply with § 148.221 and be submitted to the Commandant (G-M).

(e) The Commandant (G-M) may require the applicant or the applicant's affiliates to make available for examination, under oath or for interview, persons having, or believed to have, necessary information. The Commandant (G-M), or its designee, conducts the interviews and examination.

(f) The Commandant (G-M) may set a deadline for receiving the information. If the applicant states that the required information is not yet available but will be at a later date, the Commandant (G-M) may specify a later deadline. If a requirement is not met by a deadline fixed under this paragraph, the Commandant (G-M) may determine whether compliance with the requirement is

important to processing the application within the time prescribed by the Act. If the requirement is important to processing the application within the time limit set by the Act, the Secretary of Transportation may either not approve the application or may suspend it indefinitely. The deadline for the Secretary's review under the Act is extended for a period of time equal to the time of the suspension.

§ 148.108 -- What if a Federal or State agency or other interested party requests additional information?

(a) Any Federal or State agency or other interested person may recommend that the applicant provide information in addition to that required to be in the application.

(b) Recommendations must include a brief statement of why the information is needed.

(c) The Commandant (G-M) must receive the request within 30 days after publication of the notice of application in the *Federal Register*. The request is considered before any final determination is made.

§ 148.110 -- How do I prepare my application?

(a) Any person may confer with the Commandant (G-M) or the Administrator of the Maritime Administration concerning the preparation of an application.

(b) The applicant may incorporate, by clear and specific reference in the application, the following:

(1) Standard reference material that the applicant relied on and that is readily available to Federal and State agencies.

(2) Current information contained in previous applications or reports that the applicant has submitted to the application staff.

(3) Current information contained in a tariff, report, or other document previously filed for public record with the Surface Transportation Board ~~or~~, the Securities and Exchange Commission, the Federal Energy Regulatory Commission, or any other State or Federal agency, if--

(i) A certified true and complete copy of the document is attached to 5 of the 15 copies of the application required by § 148.115(a);

(ii) The date of filing and the document number or other locator are on the cover of the document; and

(iii) Any verification or certification required for the original filing (other than from auditors or other independent persons) is dated no earlier than 30 days before the date of the application.

148.115 -- How many copies of the application must I send and where must I send them?

Send copies of the application as follows:

(a) Fifteen copies, plus two copies for each adjacent coastal State, to the Commandant (G-M), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001.

(b) ~~One copy~~An additional copy of the application shall also be provided to the U.S. Coast Guard for its forwarding to the U.S. Army Corps of Engineers District Office having jurisdiction over the proposed port. ~~For the address, see http://www.usace.army.mil/.~~

148.125 -- What are the application fees?

(a) The applicant must submit to the Commandant (G-M) a nonrefundable application fee of $ 350,000 with each application for a license. If additional information is necessary to make an application complete, no additional application fee is required.

(b) The costs incurred by the Federal Government in processing an application will be charged to the application fee until it is exhausted. If the fee is exhausted and the Federal Government incurs further processing costs, the applicant will be ~~charged~~invoiced the additional costs. These additional costs must be submitted to the Commandant (G-M) within sixty (60) days of when they are assessed.

(c) Application fees and additional costs assessed under this section must be made payable to the "United States Treasury."

Subpart C--Processing Applications

General

148.200 -- What is the purpose of this subpart?

This subpart prescribes the requirements for processing an application for a deepwater port license, including the procedures for maintaining the docket, designating adjacent coastal States, holding informal and formal public hearings, and approving or denying an application.

148.203 -- What is the role of MARAD in the processing of applications?

The Commandant (G-M) coordinates the processing of applications with the Maritime Administrator.

148.205 -- How are documents related to the application maintained?

(a) The Commandant (G-M) maintains the docket for each application.

(b) The docket contains a copy of all documents filed or issued as part of application process.

(c) Recommendations submitted by Federal departments and agencies under *33 U.S.C. 1504*(e)(2) are docketed when they are received. Copies of the draft and final environmental impact statements prepared under *33 U.S.C. 1504*(f) are docketed when they are sent to the Environmental Protection Agency.

(d) For a document designated as protected from disclosure under *33 U.S.C. 1513*(b), the Commandant (G-M)--

(1) Prevents the document from being made available for public inspection;

(2) Prevents the information in the document from being disclosed, unless the Commandant (G-M) states that the disclosure is not inconsistent with *33 U.S.C. 1513*(b); and

(3) Keeps a record of all individuals who have a copy of the document.

§ 148.207 -- How and where can I view docketed documents?

(a) All material in a docket under § 148.205 is available to the public for inspection and copying at Commandant (G-M) at the address under "Commandant (G-M)" in § 148.5, except for--

(1) Contracts under *33 U.S.C. 1504*(c)(2)(B) for the construction or operation of a deepwater port; and

(2) Material designated under paragraph (b) of this section as a trade secret or commercial or financial information that is claimed to be privileged or confidential.

(b) A person submitting material that contains either a trade secret or commercial or financial information under paragraph (a)(2) of this section must designate those portions of the material that are privileged or confidential. Section 148.221 contains procedures for objecting to these claims.

§ 148.209 -- How is the application processed?

The Commandant (G-M) processes each application and publishes the notice of application under *33 U.S.C. 1504*(c) in the Federal Register. Upon publication of a notice of application, the Commandant (G-M) delivers copies of the application to the following:

(a) To each Federal agency with jurisdiction over any aspect of ownership, construction, or operation of deepwater ports. At a minimum, these must include the Environmental Protection Agency, the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, the Minerals Management Service, the State Historic Preservation Officer, and relevant State environmental and natural resources protection agencies.

(b) To each adjacent coastal State.

148.211 -- What must I do if I need to change my application?

If, at any time before the Secretary approves or denies an application, the information in it changes or becomes incomplete, the applicant must promptly submit, to Commandant (G-M), 15 copies of the change or the additional information, plus 2 copies for each adjacent coastal State.

148.213 -- How do I withdraw my application?

The applicant may withdraw its application at any time before the proceeding is terminated by delivering or mailing notice of withdrawal to the Commandant (G-M) for docketing.

148.215 -- What if a port has plans for a deep draft channel and harbor?

If a port of a State that will be directly connected by pipeline with a proposed deepwater port has existing plans for a deep draft channel and harbor, a representative of the port may request a determination under *33 U.S.C. 1503*(d). The request must be sent, in writing, to Commandant (G-M) within 30 days after the date that the notice of application for the deepwater port is published in the Federal Register. The request must meet the following requirements:

(a) Be signed by the highest official of the port submitting the request.

(b) Contain a copy of the existing plans for the construction of a deep draft channel and harbor.

(c) Certify that the port has an active study by the Secretary of the Army for the construction of a deep draft channel and harbor or that the port has pending an application for a permit under *33 U.S.C. 403* for the construction.

(d) Provide any available documentation on--

(1) Initial costs (by phases, if development is staged) for the proposed onshore project, including dredging, ship terminal, and attendant facilities;

(2) Estimated annual operating expenses (by phases, if development is staged), including labor, for 30 years for all elements of the project;

(3) Estimated time of completion of all elements of the project;

(4) Estimated volume of ship traffic and volume and variety of the tonnage;

(5) Potential traffic congestion conditions in the port and the port's capability to control vessel traffic as a result of the proposed dredging project;

(6) Estimated economic benefits of the project, including--

(i) Economic contribution to the local and regional area;

(ii) Induced industrial development;

(iii) Increased employment; and

(iv) Increases in tax revenues; and

(7) Environmental and social impact of the project on elements of the local and regional community.

(e) State whether the port seeks a determination that the port best serves the national interest.

148.217 -- How can a State be designated as an adjacent coastal State?

(a) Adjacent coastal States are named in the notice of application published in the Federal Register. However, a State not named as an adjacent coastal State in the notice may request to be designated as one if the environmental risks to it are equal to or greater than the risks posed to a State directly connected by pipeline to the proposed deepwater port.

(b) The request must--

(1) Be submitted in writing to the Commandant (G-M) within 14 days after the date of publication of the notice of application in the Federal Register;

(2) Be signed by the Governor of the State;

(3) List the facts and any available documentation or analyses concerning the risk of damage to the coastal environment of the State; and

(4) State why the State believes the risk of damage to its coastal environment is equal to or greater than the risk to a State connected by a pipeline to the proposed deepwater port.

(c) Upon receipt of a request, the Commandant (G-M) sends a copy of the State's request to the Administrator of the National Oceanic and Atmospheric Administration (NOAA) and asks for the Administrator's recommendations within a period of time that will allow the Commandant (G-M) 45 days from receipt of the request to determine the matter.

(d) If, after receiving NOAA's recommendations, the Commandant (G-M) determines that the State should be considered as an adjacent coastal State, the Commandant (G-M) designates it as an adjacent coastal State. If the Commandant (G-M) denies the request, the Commandant (G-M) notifies the Governor of the requesting State of the denial.

148.221 -- What must I do to make a claim or object to a claim?

(a) Persons required to furnish information under this part may assert a claim of privilege or immunity as grounds for relief from the requirement. The claim must be submitted in writing to the Commandant (G-M).

(b) If the claim concerns a document protected from disclosure under *33 U.S.C. 1513*(b), the document must be placed in a sealed envelope with the name of the person claiming the protection, the applicant's name, the date or anticipated date of the application, and a brief statement of the basis of the claim. If a number of documents are involved, they must be grouped according to the nature of the claim and both the documents and their envelopes must be numbered using a self-explanatory numbering system.

(c) If the claim concerns the attorney-client privilege, the claim must identify the communication by date, type, persons making and receiving it, and general subject matter. If the required information is in a separable part of a communication, such as an attachment to a letter, the separate part must be identified the same way as the communication. The identification must be filed with the Commandant (G-M).

(d) A Federal or State agency, the applicant, an affiliate of the applicant, or other interested person may object to a claim. The objection must be in writing, must include a brief statement of the basis for the objection, and must identify the document to which the claim applies.

(e) Commandant (G-M) determines issues raised by claims filed under this section and may specify procedures to be used to resolve the issues, including procedures for the disclosure of information. Any person may submit recommendations to the Commandant (G-M) as to the procedures to be used.

(f) The presiding officer at any formal or informal hearing may allow claims or objections that could be filed under this section to be made and may issue a decision, including a decision on procedures for the disclosure of information, or refer the matter to the Commandant (G-M).

(g) The filing of a claim under this section, other than a claim under paragraph (b) of this section, stays the time for meeting any deadline for submitting information related to an issue raised in a claim or objection. However, the filing of a claim does not stay the periods for processing and reviewing applications, unless the Commandant (G-M) determines that compliance with the requirement is material to the processing of the application within the required time. If the Commandant (G-M) determines that the information is material, the Commandant (G-M) may suspend the processing of the application. The period of suspension is not counted toward the time limits in *33 U.S.C. 1503*(c)(6), 1504(d)(3), (e)(2), and (g), and 1508(b)(1).

Public Meetings

☐ **148.222 -- When must public meetings be held?**

(a) Before a license is issued, at least one public meeting under *33 U.S.C. 1504*(g) must be held in each adjacent coastal State.

(b) The Commandant (G-M), in coordination with the Administrator of the Maritime Administration, publishes a notice of public meetings in the Federal

Register and mails or delivers a copy of the notice to the applicant, to each adjacent coastal State, and to all who request a copy, which request can be made any time after an application is filed.

(c) Anyone may attend the public meetings and provide oral or written information. The presiding officer may limit the time for providing oral information.

§ 148.227 -- How is a public meeting reported?

(a) After completion of a meeting, the presiding officer forwards a report on the hearing to the Commandant (G-M) for docketing.

(b) The report contains at least--

(1) An overview of the factual issues addressed;

(2) A transcript or recording of the meeting; and

(3) A copy of all material submitted to the presiding officer.

(c) During the hearing, the presiding officer announces what the report must contain.

Formal Hearings

§ 148.228 -- What if a formal hearing is necessary?

(a) After all public meetings under § 148.222 are concluded, the Commandant (G-M), in coordination with the Administrator of the Maritime Administration, considers whether there are one or more specific and material factual issues that may be resolved by a formal evidentiary hearing.

(b) If the Commandant (G-M), in coordination with the Administrator of the Maritime Administration, determines that one or more issues under paragraph (a) of this section exist, the Coast Guard holds at least one formal evidentiary hearing under *5 U.S.C. 554* in the District of Columbia.

(c) The Commandant (G-M) files a request for assignment of an administrative law judge with the ALJ Docketing Center. The Chief Administrative Law Judge designates an administrative law judge (ALJ) or other person to conduct the hearing.

(d) The recommended findings and the record developed in a hearing under paragraph (b) of this section are considered by the Secretary of Transportation in deciding whether to approve or deny a license.

§ 148.230 -- How is notice of a formal hearing given?

(a) The Commandant (G-M) publishes a notice of the hearing in the Federal Register and sends a notice of the hearing to the applicant, to each adjacent coastal State, and to each person who requests such a notice.

(b) The notice of the hearing includes the applicant's name, the name of the administrative law judge (ALJ) assigned to conduct the hearing, a list of the factual issues to be resolved, the address of the place where documents are to be filed, and the address where a copy of the rules of practice, procedure, and evidence to be used at the hearing is available.

148.232 -- What are the rules for a formal hearing?

(a) The Commandant (G-M) determines the rules for each formal hearing. Unless otherwise specified in this part, the Commandant (G-M) applies the rules of practice, procedure, and evidence in part 20 of this chapter.

(b) The Commandant (G-M) sends a written copy of the procedure to the applicant, each person intervening in the proceedings, and each person who requests a copy.

148.234 -- What are the limits of an administrative law judge's jurisdiction?

(a) An ALJ's jurisdiction begins upon assignment to a proceeding.

(b) An ALJ's jurisdiction ends after the recommended findings are filed with the Commandant (G-M) or immediately after the ALJ issues a notice of withdrawal from the proceeding.

148.236 -- What authority does an administrative law judge have?

When assigned to a formal hearing, an ALJ may--

(a) Administer oaths and affirmations;

(b) Issue subpoenas;

(c) Issue rules of procedure for written evidence;

(d) Rule on offers of proof and receive evidence;

(e) Examine witnesses;

(f) Rule on motions of the parties;

(g) Suspend or bar an attorney from representing a person in the proceeding for unsuitable conduct;

(h) Exclude any person for disruptive behavior during the hearing;

(i) Set the hearing schedule;

(j) Certify questions to the Commandant (G-M);

(k) Proceed with a scheduled session of the hearing in the absence of a party who has failed to appear;

(l) Extend or shorten a non-statutorily imposed deadline under this subpart within the 240 day time limit for the completion of public hearings in *33 U.S.C. 1504*(g);

(m) Set deadlines not specified in this subpart or the Act; and

(n) Take any other action authorized by or consistent with this subpart, the Act, or *5 U.S.C. 551*-559.

148.238 -- Who are the parties to a formal hearing?

The parties to a formal hearing are--

(a) The applicant;

(b) The Commandant (G-M); and

(c) Any person intervening in the proceedings.

148.240 -- How does a State or a person intervene in a formal hearing?

(a) Any person or adjacent coastal State may intervene in a formal hearing.

(b) A person must file a petition of intervention within ten days after notice of the formal hearing is issued. The petition must--

(1) Be addressed to the ALJ Docketing Center;

(2) Identify the issues and the petitioner's interest in those issues; and

(3) Designate the name and address of a person who can be served if the petition is granted.

(c) An adjacent coastal State need only file a notice of intervention with the ALJ Docketing Center.

(d) The ALJ has the authority to limit the scope and period of intervention during the proceeding.

(e) If the ALJ denies a petition of intervention, the petitioner may file a notice of appeal with the ALJ Docketing Center within 7 days of the denial. A brief may be submitted with the notice of appeal. Parties who wish to file a brief in support of or against the notice of appeal may do so within 7 days of the filing of the notice.

(f) The Commandant (G-M) will rule on the appeal. The ALJ does not have to delay the proceedings for intervention appeals.

148.242 -- How does a person who is not a party to a formal hearing present evidence at the hearing?

(a) For a person who is not a party to a formal hearing to present evidence at the hearing, the person must send a petition to present evidence to the ALJ

Docketing Center before the beginning of the formal hearing. The petition must describe the evidence that the person will present and show its relevance to the issues listed in the notice of formal hearing.

(b) If a petition is granted, the ruling will specify which evidence is approved to be presented at the hearing.

148.244 -- Who must represent the parties at a formal hearing?

(a) All organizations that are parties to the proceeding must be represented by an attorney. Individuals may represent themselves.

(b) Any attorney representing a party to the proceeding must file a notice of appearance according to 20.301(b) of this chapter.

(c) Each attorney must be in good standing and licensed to practice before a court of the United States or the highest court of any State, territory, or possession of the United States.

148.246 -- When is a document considered filed and where must it be filed?

(a) If a document to be filed is submitted by mail, it is considered filed on the date it is postmarked. If a document is submitted by hand delivery or electronically, it is considered filed on the date received by the clerk.

(b) File all documents and other materials related to an administrative proceeding at the U.S. Coast Guard Administrative Law Center, Attention: Hearing Docket Clerk, room 412, 40 South Gay Street, Baltimore, MD, 21201-4022.

148.248 -- What happens when a document does not contain all necessary information?

Any document that does not satisfy the requirements in 20.303 and 20.304 of this chapter will be returned to the person who submitted it with a statement of the reasons for denial.

148.250 -- Who must be served before a document is filed?

Before a document may be filed by any party, it first must be served upon--

(a) All other parties; and

(b) The Commandant (G-M).

148.252 -- What is the procedure for having a subpoena served?

(a) A party submit a request for a subpoena to the ALJ. The request must show the relevance and scope of the evidence sought.

(b) Requests should be submitted sufficiently in advance of the hearing so that exhibits and witnesses can be included in the lists required by § 20.601 of this chapter but may be submitted later before the end of the hearing if good cause is shown for the late submission.

(c) A request for a subpoena must be submitted to the ALJ.

(d) A proposed subpoena, such as the form in *http://cgweb.comdt.uscg.mil/g-cj/subpoena.doc,* must be submitted with the request. If you don't use this form, the proposed subpoena must contain--

(1) The docket number of the proceedings;

(2) The captions "Department of Transportation," "Coast Guard," and "Licensing of deepwater port for coastal waters off (insert name of the coastal State closest to the proposed deepwater port and the docket number of the proceeding)";

(3) The name and the address of the office of the ALJ;

(4) For a subpoena to give testimony, a statement commanding the person to whom the subpoena is directed to attend the formal hearing and give testimony;

(5) For a subpoena to produce documentary evidence, a statement commanding the person to produce designated documents, books, papers, or other tangible things at a designated time or place; and

(6) An explanation of the procedure in § 20.309(d) of this chapter and paragraph (f) of this section for quashing a subpoena.

(e) The procedure for serving a subpoena must follow rule 45 of the Federal Rules of Civil Procedure, unless the ALJ authorizes another procedure.

(f) The witness fees for a subpoenaed witness are the same as the fees for witnesses subpoenaed in U.S. District Courts. The person requesting the subpoena must pay these fees.

(g) When serving a subpoena, a party must include witness fees in the form of a check to the individual or organization for one day plus mileage or, in the case of a government-issued subpoena, a form SF-1157 for reimbursement for witness fees and mileage.

(h) Any person served with a subpoena has 10 days from the time of service to move to quash the subpoena.

(i) If a person does not comply with a subpoena, the ALJ decides whether judicial enforcement of the subpoena is necessary. If the ALJ decides it is, the Commandant (G-M) reviews this decision.

§ 148.254 -- How is a transcript of the hearing prepared?

(a) Under the supervision of the ALJ, the reporter prepares a verbatim transcript of the hearing. Nothing may be deleted from the transcript, unless ordered by the ALJ and noted in the transcript.

(b) After a formal hearing is completed, the ALJ certifies and forwards the record, including the transcript, to the clerk for docketing.

(c) At any time within the 20 days after the record is docketed, the ALJ may make corrections to the certified transcript. When corrections are filed, they are attached as appendices.

(d) Any motion to correct the record must be submitted within 10 days after the record is docketed.

§ 148.256 -- What happens at the conclusion of a formal hearing?

After closing the record of a formal hearing, the ALJ prepares a recommended finding on the issues that were the subject of the hearing. The ALJ submits that finding to the Commandant (G-M).

Approval or Denial of the Application

§ 148.276 -- When must the application be approved or denied?

Within 90 days after the close of the last public meeting or formal hearing, the Secretary of Transportation either approves or denies the application.

§ 148.277 -- How may Federal agencies and States participate in the application process?

(a) Under § 148.209, Federal agencies and adjacent coastal States are sent copies of the application. The agencies and States are encouraged to begin submitting their comments at that time.

(b) To be considered by the Secretary of Transportation, the Commandant (G-M), and the Administrator of the Maritime Administration, comments from Federal agencies and adjacent coastal States must reach the Commandant (G-M), at the latest, within 45 days after the completion of the last of the public meetings and formal hearings on an application.

(c) Comments should identify problems, if any, and suggest possible solutions.

§ 148.279 -- What are the criteria and considerations for approval of an application?

(a) The Secretary of Transportation approves an application if the Secretary determines that--

(1) The applicant is financially responsible and will carry insurance, or give other evidence of financial responsibility to meet its limit of liability established under subpart G of this part for removal costs and damages that could result from a discharge of oil or natural gas from the deepwater port or a vessel moored at the deepwater port;

(2) The applicant can and will comply with applicable laws, regulations, and license conditions;

(3) The construction and operation of the deepwater port will be--

(i) In the national interest;

(ii) Consistent with national security;

(iii) Consistent with other national policy goals and objectives, including energy sufficiency and environmental quality; and

(iv) Consistent with the Act, this subchapter, and other applicable laws, including those listed in appendix A to this part;

(4) The deepwater port will not unreasonably interfere with international navigation or other reasonable uses of the high seas, as defined by treaty, convention, or customary international law;

(5) The applicant has demonstrated that the deepwater port will be constructed and operated according to the environmental review criteria in appendix A to this part and will use the best available technology, so as to prevent or minimize adverse impact on the marine environment; and

(6) Any State connected to the deepwater port by pipeline--

(i) Is receiving a planning grant under section 305 of the Coastal Zone Management Act of 1972 *(16 U.S.C. 1454)*; or

(ii) Has developed, or is developing, an approved coastal zone management program under the Coastal Zone Management Act of 1972 *(16 U.S.C. 1451*-1465). This program must include the area that will be directly and primarily impacted by land and water development in the coastal zone resulting from the deepwater port.

(b) After making the determinations under paragraph (a) of this section, the Secretary considers the following:

(1) The information in the application and any other applications for licenses submitted under *33 U.S.C. 1504*(d)(3) for the same application area.

(2) The information from the public meetings and formal hearings held under this part.

(3) The final environmental ~~impact statement for the application area concerned~~review required by *33 U.S.C. 1504(f)* for the proposed deepwater port.

(4) The views on the adequacy of the application and its effects on programs within their respective jurisdictions by the Secretaries of the Army, State, and Defense.

(5) The comments of the Maritime Administration and other Federal departments and agencies that have a specific duty under the Act or expertise concerning, or jurisdiction over, any aspect of the ownership, construction, or operation of a deepwater port.

(6) The comments from the adjacent coastal States.

148.281 -- What happens when more than one application for an oil deepwater port is submitted for the same application area?

(a) When more than one application is submitted for the same application area under *33 U.S.C. 1504*(d), the Secretary of Transportation approves only one application. Except as provided in paragraph (b) of this section, applicants receive priority in the following order:

(1) An adjacent coastal State (or combination of States), political subdivision of the State, or an agency or instrumentality, including a wholly owned corporation of the State.

(2) A person--

(i) Not engaged in producing, refining, or marketing oil;

(ii) Not an affiliate of a person engaged in producing, refining, or marketing oil ; or

(iii) Not an affiliate of an affiliate of a person engaged in producing, refining, or marketing oil.

(3) Any other applicant.

(b) The Secretary of Transportation may also approve one of the proposed deepwater ports if the Secretary determines that that port will best serve the national interest. In making this determination, the Secretary considers--

(1) The degree to which each deepwater port will affect the environment, as determined under the review criteria in appendix A to this part;

(2) The differences between the anticipated completion dates of the deepwater ports; and

(3) The differences in costs for construction and operation of the ports that would be passed on to consumers of oil.

(c) Sections 148.281(a) and (b) shall not apply to deepwater ports for natural gas pursuant to *33 U.S.C. 1504(i)(4)*.

148.283 -- When is the application process stopped before the application is approved or denied?

The Commandant (G-M), in coordination with the Administrator of the Maritime Administration, stops the application process before the application is approved or denied if--

(a) All applications are withdrawn before the Secretary of Transportation approves one of them; or

(b) There is only one application, it is incomplete, and the applicant does not respond to a request by the Commandant (G-M) for further information.

Subpart D-Licenses

148.300 -- What does this subpart concern?

This subpart concerns the license for a deepwater port and the procedures for transferring, amending, suspending, reinstating, revoking, and enforcing a license.

148.305 -- What is included in a deepwater port license?

A deepwater port license contains the following:

(a) The name, and the number or other identification, of the port.

(b) The name of the owner and operator of the port.

(c) The conditions prescribed under *33 U.S.C. 1503*(e) for ownership, construction, and operation of the deepwater port.

(d) A statement that--

(1) There will be no substantial change from the plans, operational systems, methods, procedures, and safeguards in the license, as approved, without the written approval, in advance, of the Secretary of Transportation; and

(2) The owner will comply with any condition that the Secretary may prescribe under the Act or this subchapter.

148.307 -- Who may consult with the Commandant G-M and the Administrator of the Maritime Administration on developing the conditions of a license?

Federal agencies, the adjacent coastal States, and the ~~owner of the~~"applicant" for a license for a deepwater port may consult with the Commandant (G-M) or the Administrator of the Maritime Administration on the conditions of the license being developed under *33 U.S.C. 1503*(e).

148.310 -- How long does a license last?

Each license remains in effect indefinitely unless--

(a) It is suspended or revoked by the Secretary of Transportation; or

(b) It is surrendered by the owner.

§ 148.315 -- How is a license amended, transferred, or reinstated?

(a) The Secretary of Transportation may amend, transfer, or reinstate a license if the Secretary finds that the amendment, transfer, or reinstatement, is consistent with the requirements of the Act and this subchapter.

(b) The owner must submit a request for an amendment, transfer, or reinstatement to the Commandant (G-M).

§ 148.320 -- How is a license enforced, suspended, or revoked?

The Secretary of Transportation may enforce, suspend, or revoke a license under *33 U.S.C. 1507*(c).

Subpart E--Site Evaluation and Pre-Construction Testing

§ 148.400 -- What does this subpart do?

(a) This subpart prescribes requirements under *33 U.S.C. 1504*(b) for the activities that are involved in site evaluation and pre-construction testing at potential locations for deepwater ports and that may--

(1) Adversely affect the environment;

(2) Interfere with authorized uses of the Outer Continental Shelf; or

(3) Pose a threat to human health and welfare.

(b) For the purpose of this subpart, "site evaluation and pre-construction testing" means studies performed at potential deepwater port locations, including--

(1) Preliminary studies to determine the feasibility of a site;

(2) Detailed studies of the topographic and geologic structure of the ocean bottom to determine its ability to support offshore structures and other equipment; and

(3) Studies done for the preparation of the environmental analysis required under § 148.105(w).

§ 148.405 -- What are the procedures for notifying the Commandant (G-M) of proposed site evaluation and pre-construction testing?

(a) Any person who wants to conduct site evaluation and pre-construction testing at a potential site for a deepwater port must submit a written notice to the Commandant (G-M) at least 30 days before the beginning of the

evaluation or testing. The Commandant (G-M) advises and coordinates with appropriate Federal agencies and the States concerning activities covered by this subpart.

(b) The written notice must include the following:

(1) The names of all parties participating in the site evaluation and pre-construction testing.

(2) The type of activities and the way they will be conducted.

(3) Charts showing where the activities will be conducted and the locations of all offshore structures, including pipelines and cables, in or near the proposed area.

(4) The specific purpose for the activities.

(5) The dates when the activities will begin and end.

(6) The available data on the environmental consequences of the activities.

(7) A preliminary report, based on existing data, of the historic and archeological significance of the area where the proposed activities are to take place. A report of each contact made with any appropriate State liaison officer for historic preservation must be included.

(8) Additional information, if necessary, in individual cases.

(c) For the following activities, the notice need have only the information required in paragraphs (b)(1), (b)(2), and (b)(5) of this section, as well as a general indication of the proposed location and purpose of the activities:

(1) Gravity and magnetometric measurements.

(2) Bottom and sub-bottom acoustic profiling without the use of explosives.

(3) Sediment sampling of a limited nature using either core or grab samplers, if geological profiles indicate no discontinuities that may have archeological significance.

(4) Water and biotic sampling, if the sampling does not adversely affect shellfish beds, marine mammals, or an endangered species, or if the sampling is permitted by another Federal agency.

(5) Meteorological measurements, including the setting of instruments.

(6) Hydrographic and oceanographic measurements, including the setting of instruments.

(7) Small diameter core sampling to determine foundation conditions.

(d) A separate written notice is required for each site.

148.410 -- What are the conditions for conducting site evaluation and pre-construction testing?

(a) No persons may conduct site evaluation and pre-construction testing unless they comply with this subpart and other applicable laws.

(b) Measures must be taken to prevent or minimize the effect of activities under § 148.400(a).

§ 148.415 -- When conducting site evaluation and pre-construction testing, what must be reported?

(a) When conducting site evaluation or pre-construction testing, the following must be immediately reported by any means to the Commandant (G-M):

(1) ~~Any~~After an analysis of data gathered by a person, any evidence of objects of cultural, historical, or archeological significance that are located at the proposed site of a deepwater port.

(2) Any adverse effect on the environment that occurs as a consequence of conducting the site evaluation or pre-construction testing.

(3) Any interference with authorized uses of the Outer Continental Shelf that occurs as a consequence of conducting the site evaluation or pre-construction testing.

(4) Any threat to human health and welfare that occurs as a consequence of conducting the site evaluation or pre-construction testing.

(5) Any adverse effect on an object of cultural, historical, or archeological significance that occurs as a consequence of conducting the site evaluation or pre-construction testing.

(b) Within 120 days after the site evaluation or pre-construction testing, a final written report must be submitted to the Commandant (G-M) that contains--

(1) A narrative description of the activities performed;

(2) A chart, map, or plat of the area where the activities occurred;

(3) The dates that the activities were performed;

(4) Information on the adverse effects of items reported under paragraph (a) of this section;

(5) Data on the historical or archeological significance of the area where the activities were conducted, including a report by an underwater archeologist, if the physical data indicate the need for such an expert; and

(6) Any additional information required by the Commandant (G-M) on a case-by-case basis.

§ 148.420 -- When may the Commandant (G-M) suspend or prohibit site evaluation or pre-construction testing?

(a) The Commandant (G-M) may order, either in writing or orally with written confirmation, the prohibition or immediate suspension of any activity related to site evaluation or pre-construction testing, when the activity threatens harm to--

(1) Human life;

(2) Biota;

(3) Property;

(4) Cultural resources;

(5) Any valuable mineral deposits; or

(6) The environment.

(b) The Commandant (G-M) consults with the applicant on measures to remove the cause for suspension.

(c) The Commandant (G-M) may lift a suspension after the applicant assures the Commandant (G-M) that the activity will no longer cause the threat on which the suspension was based.

Subpart F--Exemption from Requirements in this Subchapter

148.500 -- What does this subpart do?

This subpart provides procedures for requesting an exemption from a requirement in this subchapter.

148.505 -- How do I apply for an exemption?

(a) Any person required to comply with a requirement in this subchapter may submit a petition for exemption from that requirement.

(b) The petition must be submitted in writing to the Commandant (G-M).

(c) The Commandant (G-M) may require the petition to provide an alternative to the requirement.

148.510 -- What happens when a petition for exemption involves the interests of an adjacent coastal State?

If the petition for exemption concerns an adjacent coastal State, the Commandant (G-M) forwards the petition to the Governor of the State for the Governor's recommendation.

148.515 -- When is an exemption allowed?

The Commandant (G-M) allows an exemption if the Commandant (G-M) determines that--

(a) Compliance with the requirement would be contrary to public interest;

(b) Compliance with the requirement would not enhance safety or the health of the environment;

(c) Compliance with the requirement is not practical because of local conditions or because the materials or personnel needed for compliance are unavailable;

(d) National defense or national economy justify a departure from the rules; or

(e) The alternative, if any, proposed in the petition would--

(1) Ensure comparable or greater safety, protection of the environment, and quality of construction, maintenance, and operation of the deepwater port; and

(2) Be consistent with recognized principles of international law.

Subpart G--Limit of Liability for Oil Ports

148.600 -- What is the purpose of this subpart?

This subpart concerns the establishment of the limit of liability under section 1004 of the Oil Pollution Act of 1990 *(33 U.S.C. 2704)* for deepwater oil ports.

148.605 -- How is the limit of liability determined?

(a) The Secretary of Transportation establishes the limit of liability for deepwater oil ports according to *33 U.S.C. 2704*(d)(~~2).~~2.

(b) Requests to adjust the limit of liability for a deepwater oil port must be submitted to Commandant (G-M). Adjustments are established by a rulemaking based on the request of the applicant. This may be done concurrently with the processing of the deepwater port license application.

148.610 -- What is the limit of liability for LOOP?

The limit of liability for the Louisiana Offshore Oil Port (LOOP) is $ 62,000,000.

Subpart H.- -Access to deepwater port facilities

148.700 -- What is the purpose of this subpart?

This subpart concerns access by third parties to deepwater port facilities and services under *33 U.S.C. 1507*

148.705 - How is access to deepwater ports for oil determined?

Any person shall have access to a deepwater port used for the transportation, storage or handling of oil on a nondiscriminatory basis and

such deepwater port shall be operated as a common carrier for all oil delivered to the deepwater port except that a licensee shall not be engaged in discrimination to the extent it satisfies the criteria set forth in *33 U.S.C. 1507(b)(1)* and *(2)*.

148.710 - How is access to deepwater ports for natural gas determined?

A licensee of a deepwater port for natural gas, or its affiliate, shall have the right to exclusive use of all or any part of the facilities and services of such deepwater port as the licensee shall reasonably determine as necessary to conduct licensee's business and the licensee shall not be subject to claims of discrimination for such use. A licensee may make available to others any capacity not utilized by the licensee, such capacity to be made available upon reasonable terms and conditions if such use does not otherwise interfere in any way with the acceptance, transport, storage, regasification, or conveyance of natural gas produced, processed, marketed or otherwise obtained by agreement by such licensee or its affiliates.

Appendix A to Part 148--Environmental Review Criteria for Deepwater Ports

Authority

(a) Under section 6 of the ~~Deepwater Port Act of 1974~~ *(33 U.S.C. 1505)*, the Commandant is required to establish environmental review criteria for use in evaluating a proposed deepwater port. In developing these criteria, the Coast Guard consulted with the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the Maritime Administration, and other Federal agencies having jurisdiction over any aspect of the construction or operation of a deepwater port. Both the construction and operation phases of a deepwater port will be evaluated by the following criteria:

(1) The effect on the marine environment.

(2) The effect on oceanographic currents and wave patterns.

(3) The effect on alternate uses (e.g., scientific study, fishing, and exploitation of other living and nonliving resources) of the oceans and navigable waters.

(4) The potential dangers to a deepwater port from waves, winds, weather, and geological conditions and the steps that can be taken to protect against or minimize these dangers.

(5) The potential for risks to the marine and terrestrial environments under normal operating scenarios and a range of spill or failure scenarios.

(6) The effects of land-based developments related to deepwater port development.

(7) The effect on human health and welfare.

(8) Other considerations deemed necessary by the Commandant (G-M).

(b) The Commandant (G-M) periodically reviews and revises, as necessary, these criteria. These reviews and revisions are performed in the same way as the originally developed criteria. The criteria established are consistent with the National Environmental Policy Act *(42 U.S.C. 4321*-4347) and were developed concurrently with the regulations under *33 U.S.C. 1504*(a) for deepwater ports.

Purpose

(a) The Secretary of Transportation may issue a license to construct a deepwater port under the Act if, among other things, the Secretary determines-

(1) That the construction and operation of the deepwater port will be in the national interest and consistent with national security and other national policy goals and objectives, including energy sufficiency, environmental quality, and protection from the threat of terrorist attack and other subversive activity against persons and property on the port and the vessels and crews calling at the port.

(2) That, under the environmental review criteria in this appendix, the applicant has demonstrated that the deepwater port will be constructed and operated using the best available technology to prevent or minimize adverse impact on the environment *(33 U.S.C. 1503*(c)(3) and 1504).

(b) Under *33 U.S.C. 1504*(f), these criteria must be considered in the preparation of a single, detailed environmental ~~impact statement~~review for all timely applications covering a single application area. Additionally, with respect to an application for a deepwater port for oil, *33 U.S.C. 1504*(i)(3) specifies that, if more than one application is submitted for an "application area" (as defined in *33 U.S.C. 1504*(d)(2)), the criteria must be used, among other factors, in determining whether any one proposed deepwater port clearly best serves the national interest.

Environmental Review Criteria

(a) The environmental review of a proposed deepwater port consists of the following two parts:

(1) The assessment of the probable negative and positive environmental impacts that will result from construction and operation of the port. (See "Part I of Environmental Review: Environmental Impacts in this appendix.) This is also discussed in the Council on Environmental Quality's regulations at 40 CFR parts 1500 through 1508.

(2) The effort made by the applicant to prevent or minimize adverse environmental effects. (See "Part II of Environmental Review: Environmental Mitigation" in this appendix.) This effort will be closely considered in the review.

(b) The overall intent of the review is to obtain a comprehensive evaluation of the significance of both the separate and cumulative environmental impacts, adverse and beneficial, of the proposed deepwater port project. In addition, the overall intent of the review is to determine whether or not the applicant has demonstrated that the deepwater port will be constructed and operated using the best available technology, thereby preventing or minimizing the adverse impact on the marine environment.

Part I of Environmental Review: Environmental Impacts

(a) The proposed deepwater port will be evaluated to assess the extent and importance of its probable negative and positive environmental impacts. The information needed for this evaluation will be provided by the ~~Federal Environmental Impact Statement~~environmental review conducted pursuant to *33 U.S.C. 1504(f)* and other necessary sources. This review will include comparisons with reasonable alternative actions, such as the no-action case, alternative schemes for transporting oil or natural gas, alternative sites, designs, and systems, and other deepwater ports. This phase of the environmental review will also include consideration of the environmental review criteria described in *33 U.S.C. 1505(a)*.

(b) The evaluation should provide a clear picture of the relative net environmental impact of the proposed project. It should identify the procedures that might be taken and the technology applied to prevent or minimize probable adverse effects.

Part II of Environmental Review: Environmental Mitigation

Under this part, the proposed project will be appraised for the effort made to prevent or minimize the probable adverse impacts on the environment. This appraisal is primarily concerned with the project as it is proposed. The alternatives are relevant only insofar as they may represent an array of possible actions that the proposal will be judged against. The review will consider the degree of adherence to the following guidelines:

(a) *Siting.*

(1) A proposed deepwater port should be sited in an optimum location to prevent or minimize detrimental environmental effects. For example, the deepwater port and all its components (including receiving terminals, inline transportation facilities and stations, ancillary and service facilities, and pipelines) should occupy the minimum space necessary for safe and efficient operation and should be located, to the extent possible, in areas where permanent alteration of wetlands is not necessary. Buffer zones should be provided to separate onshore facilities from incompatible adjacent land uses.

(2) The deepwater port facility and its offshore components should be located in areas that have stable sea-bottom characteristics; and its onshore

components should be located in areas where a stable foundation can be developed and flood protection levees, if appropriate, can be constructed.

(3) The deepwater port facility should be located in an area where existing offshore structures and activities will not interfere with its safe operation, and where the facility or navigation to and from that facility, will not interfere with the safe operation of existing offshore structures. Water depths and currents in and around the deepwater port and its approaches should pose no undue hazard to safe navigation. Extensive dredging or removal of natural obstacles, such as reefs, should be avoided. The siting procedure should select an area where projected weather, wave conditions, and seismic activity minimize the probability that damage will occur to the deepwater port, tankers, pipeline, and component shore-side facilities from storms, earthquakes, or other natural hazards.

(4) Sites should maximize the permitted use of existing work areas and facilities and access routes for construction and operations activities. Where temporary work areas, facilities, or access routes must be used, they should be, to the fullest extent possible, designed and constructed in such a manner as to permit restoration to the pre-construction environmental conditions or better.

(5) The deepwater port facility, navigational fairways, and pipelines should be sited where the interactions of requirements of the facility and the natural environment are optimized to prevent adverse impacts or to produce acceptably low adverse effects. Key factors in assessments should include, but are not be limited to, projected winds, waves, current, spill size, spill frequency, and cleanup capability; shoreline, estuarine, and bay sensitivity; biological resources, damage potential and recovery rate; facility design; and project economics.

(6) The deepwater port, pipelines, and attendant facilities should be located as far as practicable from the vicinity of critical habitats for biota, including, but not limited to, commercial and sports fisheries and threatened and endangered species.

(7) Sites should reflect negligible displacement of existing or potentially important uses, such as the following:

(i) Fisheries.

(ii) Recreation.

(iii) Mining.

(iv) Oil and gas production.

(v) Transportation.

(8) Siting should favor areas already allocated for similar use and the implications of density of these uses.

(i) Port facilities--existing tanker and barge traffic--existing ports, which can be used for service vessels.

(ii) Pipelines--use of existing corridors.

(iii) Secondary facilities--use of (or expansion of) existing storage, refinery, and other support facilities.

(iv) Construction facilities--use of existing equipment and personnel staging yards.

(9) The deepwater port, pipelines, and other offshore facilities should be sited so that they will not permanently interfere with the natural littoral process and will not significantly alter any tidal pass or other part of the physical environment that is important to natural currents and wave patterns.

(10) Pipelines, or other deepwater port components or facilities requiring dredging, should not be located where sediments with high levels of heavy metals, biocides, oil, or other pollutants or hazardous materials exist.

(b) *Design, construction, and operation.* Selection of design and procedures for construction and operation of a deepwater port must reflect the use of the best available technology, as applicable to oil or natural gas transfer activities. The following are some examples:

(1) All oil or natural gas transfer, transportation, and storage facilities and their systems and equipment should include appropriate safeguards and backup systems or should be operated under procedures both to minimize the possibility of pollution incidents resulting from personnel and equipment failures, natural calamities, and casualties, such as tanker collisions or groundings, and to minimize the adverse effects of those pollution incidents that do occur. These facilities, systems, and equipment should be designed to permit safe operation, including appropriate safety margins, under maximum operating loads and the most adverse operating conditions.

(2) All facilities should be provided with a safe, environmentally sound method for the collection, storage, and disposal of solid and liquid wastes generated by these facilities. When prescribed by law or regulation, the deepwater port may be required to be fitted with additional facilities for the collection and treatment of ship-generated liquid and solid wastes, such as oily bilge and oily ballast water, tank cleaning residues, sludge wastes, and sewage and garbage, or any discharges from processing equipment.

(3) The proposed project should be designed, constructed and operated so it will not permanently interfere with natural littoral processes or other significant aspects of currents and wave patterns. Additionally, harmful erosion or accretion, both onshore and offshore, should be prevented. Groundwater drawdown or saltwater intrusion should not be permitted. Moreover, the mixing of salt, brackish, and fresh waters should be minimized. Designs should not include factors that will disrupt natural sheet flow, water flow, and drainage patterns or systems.

(4) The proposed project should not interfere with biotic populations. Potential effects on breeding habitats or migration routes should receive particular attention.

(5) The proposed project should be designed, constructed, and operated to make maximum, feasible use of already existing local facilities, such as roads, pipelines, docking facilities and communications facilities.

(6) Disposal of spoil and refuse material should be effected only at disposal sites specifically selected and approved by competent authorities. Whenever and wherever possible, the proposal should provide for resource recovery, reclamation of affected areas, or enhancing uses of spoil and waste.

(7) Personnel trained in ~~oil spill~~ pollutant discharge prevention and mitigation should be present at critical points ~~at~~during the ~~deepwater port (as identified in the accident analysis). Personnel should also be trained in~~ oil ~~spill control to mitigate the effects of any spill that may occur~~transfer process.

(c) *Land Use and Coastal Zone Management*. A deepwater port should not conflict with existing or planned land use, including management of the coastal region. A measure of whether or not conflict exists will be made by the following means:

(1) The proposed project should adhere closely to approved master plans or other plans of competent local or State authorities in designated adjacent coastal States or in other States where significant effects are likely to occur. A minimum of special exceptions or zoning variances should be required. Non-conforming uses should not be prolonged where reasonable alternatives are available.

(2) The proposed project should conform with approved or planned coastal zone management programs of the relevant adjacent coastal States.

(3) The proposed use of floodplains should not--

(i) Entail loss of wetlands;

(ii) Pose an undue risk of exposure of that use to flood damage;

(iii) Increase the potential need for Federal expenditures for flood protection or flood disaster relief; and

(iv) Decrease the unique public value of the floodplain as an environmental resource or provide an incentive for other uses of the floodplains that have similar ultimate results.

(4) The use of or effect on wetlands should be considered in the following manner:

(i) Uses that would permanently alter or adversely affect wetlands should be avoided; or

(ii) Positive action must be taken to minimize adverse effects on wetlands.

Environmental Statutes

(a) In constructing and operating a deepwater port, the port must comply with all applicable environmental statutes, including the National Environmental Policy Act *42 U.S.C. 4321 et seq.*), the Clean Air Act *(42 U.S.C. 7401 et seq.*), the Federal Water Pollution Control Act *(33 U.S.C. 1251 et seq.*), the Marine Protection, Research and Sanctuaries Act *(33 U.S.C. 1401 et seq.*), the Coastal Zone Management Act of 1972 *(16 U.S.C. 1451 et seq.*), the Endangered Species Act of 1973 *(16 U.S.C. 1531 et seq.*), the Marine Mammal Protection Act of 1972 *(16 U.S.C. 1361 et seq.*), the National Historic Preservation Act of 1966 *(16 U.S.C. 661 et seq.*), the Comprehensive Environmental Response, Compensation, and Liabilities Act.

(b) In addition, the port must comply with section 5 of the ~~Deepwater Port Act of 1974~~ on ~~preparation of a single, detailed~~compliance with the environmental ~~impact statement~~analysis *(33 U.S.C. 1504*(f)) and section 6 on the effect of the port on the marine environment *(33 U.S.C. 1505*(a)).

PART 149--DEEPWATER PORTS: DESIGN, CONSTRUCTION, AND EQUIPMENT

Subpart A--General

Sec.
149.1 What does this part do?
149.5 Where can I find the definition of a term used in this part?
149.10 What is the Coast Guard publication for equipment type approval, and where can I obtain it?

Subpart B--Pollution Prevention Equipment
149.100 What does this subpart do?
149.103 What are the requirements for discharge containment and removal material and equipment?
149.105 What are the requirements for the overflow and relief valves?
149.110 What are the requirements for pipeline end manifold shutoff valves?
149.115 What are the requirements for blank flange and shutoff valves?
149.120 What are the requirements for manually operated shutoff valves?
149.125 What are the requirements for the malfunction detection system?
149.130 What are the requirements for the oil transfer system alarm?
149.135 What should be marked on the oil transfer system alarm switch?
149.140 What communications equipment must be on a deepwater port?
149.145 What are the requirements for curbs, gutters, drains, and reservoirs?
149.150 What are the requirements for the receipt of oil residues from vessels?

Subpart C--Lifesaving Equipment
149.300 What does this subpart do?

Subpart F--Design and Equipment

General

Systems Fire Protection

Single Point Moorings

Helicopter Fueling Facilities

Emergency Power

General Alarm System

Public Address System

Medical Treatment Rooms

Miscellaneous

Authority: *33 U.S.C. 1504;* 49 CFR 1.46.

Subpart A--General

149.1 -- What does this part do?

This subpart provides requirements for the design and construction of deepwater ports. It also provides the requirements for equipment for deepwater ports.

149.5 -- Where can I find the definition of a term used in this part?

(a) See 148.5 for the definition of certain terms used in this part.

(b) See 140.25 of this chapter for the definition of the following terms: "accommodation module," "major conversion," "sleeping spaces," and "temporary accommodation module."

149.10 -- What is the Coast Guard publication for equipment type approval, and where can I obtain it?

(a) Where equipment in this subchapter must be of an approved type, the equipment must be specifically approved by the Commandant (G-M). A list of approved equipment, including all of the approval series, is available at *http://www.uscg.mil/hq/g-m/mse/equiplistexpl.htm*. The last printed version of the list, current only up through 1994, is published in COMDTINST M16714.3 (Series), Equipment List, and is available from Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250, or by phone at 202-512-1800.

(b) Specifications for certain items required to be of an approved type are in 46 CFR parts 160 through 164.

Subpart B--Pollution Prevention Equipment

149.100 -- What does this subpart do?

This subpart provides requirements for pollution equipment on manned deepwater ports.

149.103 -- What are the requirements for discharge containment and removal material and equipment?

(a) Each deepwater port for oil must have oil discharge containment and removal material and equipment that, to the extent best available technology allows, can contain and remove an oil discharge of at least 10,000 U.S. gallons. The material and equipment must be stored on the pumping platform or on a service craft operating at the deepwater port.

(b) Each deepwater port which conducts oil transfer operations must have readily accessible additional containment and removal material and equipment for containing and removing oil discharges larger than those specified in paragraph (a) of this section. For purposes of this paragraph, access may be by direct ownership, joint ownership, cooperative venture, or contractual agreement.

(c) The type of discharge containment and removal material and equipment that best meets the requirements of paragraphs (a) and (b) of this section must be determined on the basis of--

(1) The oil handling rates of the deepwater port;

(2) The volume of oil susceptible to being spilled;

(3) The frequency of oil transfer operations at the deepwater port;

(4) The prevailing wind and sea state condition at the deepwater port;

(5) The age, capability, and arrangement of, and the licensee's experience with, the oil transfer system equipment at the deepwater port; and

(6) The expected availability and frequency of use of the discharge containment material and equipment and whether they are shared.

149.105 -- What are the requirements for the overflow and relief valves?

(a) Each oil transfer system (OTS) must include a relief valve that, when activated, prevents pressure on any component of the OTS from exceeding its maximum rated pressure.

(b) The oil transfer system overflow or relief valve must not allow an oil discharge into the sea.

149.110 -- What are the requirements for pipeline end manifold shutoff valves?

Each pipeline end manifold must have a shutoff valve capable of operating both manually and from the pumping platform complex.

149.115 -- What are the requirements for blank flange and shutoff valves?

Each floating hose string must have a blank flange and a shutoff valve at the vessel's manifold end.

149.120 -- What are the requirements for manually operated shutoff valves?

Each oil transfer line passing through an SPM buoy must have a manual shutoff valve on the buoy.

149.125 -- What are the requirements for the malfunction detection system?

Each oil system between a pumping platform complex and the shore must have a system that can detect and locate all leaks and other malfunctions.

149.130 -- What are the requirements for the oil transfer system alarm?

(a) Each oil transfer system must have an alarm to signal a malfunction or failure in the system.

(b) The alarm must be--

(1) Capable of being activated at the pumping platform complex;

(2) A signal audible in all areas of the pumping platform complex, except in areas under paragraph (b)(3) of this section;

(3) A high intensity flashing light in areas of high ambient noise levels where hearing protection is required under § 150.600 of this chapter; and

(c) Distinguishable from the general alarm.

§ 149.135 -- What should be marked on the oil transfer system alarm switch?

Each switch for activating an alarm, and each audio or visual device for signaling an alarm, under § 149.130 must be identified by the words "OIL TRANSFER ALARM" in red letters at least 1-inch (2.5 centimeters) high on a yellow background.

§ 149.140 -- What communications equipment must be on a deepwater port?

Each deepwater port that is manned must have the following communications equipment:

(a) A means of continuous two-way voice communication among the deepwater port and the tankers, support vessels, and other vessels operating at the port. The means must be usable and effective in all phases of a transfer and in all conditions of weather at the port.

(b) A means to effectively indicate the need to use the communication system required by paragraph (a) of this section, even if the means is the communication system itself.

(c) For each portable means of communication used to meet the requirements of this section, equipment that is--

(1) Certified under 46 CFR 111.105-11 to be operated in Group D, Class 1, Division 1 Atmosphere; and

(2) Permanently marked with the certification required in paragraph (c)(1) of this section. As an alternative to this marking requirement, a document certifying that the portable radio devices in use are in compliance with this section may be kept at the deepwater port.

§ 149.145 -- What are the requirements for curbs, gutters, drains, and reservoirs?

Each pumping platform complex must have enough curbs, gutters, drains, and reservoirs to collect, in the reservoirs, all oil and contaminants not authorized for discharge into the ocean according to the port's National Pollution Discharge Elimination System (NPDES) permit.

§ 149.150 -- What are the requirements for the receipt of oil residues from vessels?

(a) Each deepwater port that receives oil from vessels must have a means for receiving oil residues from those vessels.

(b) A deepwater port is not required to receive oil residues from vessels that are engaged in a vessel-to-vessel transfer.

Subpart C--Lifesaving Equipment

149.300 -- What does this subpart do?

This subpart provides requirements for lifesaving equipment on manned deepwater ports.

149.305 -- What are the requirements for lifesaving equipment?

(a) Each deepwater port on which at least one person occupies an accommodation space for more than 30 consecutive days in any successive 12-month period must comply with the requirements for lifesaving equipment in 143.810 through 143.885 of this chapter.

Note: Sections 143.810 through 143.885 referred to in this paragraph are as proposed in *64 FR 68476-68480*, December 7, 1999.

(b) Each deepwater port not under paragraph (a) of this section must comply with the requirements for lifesaving equipment in 143.910 through 143.925 of this chapter.

Note: Sections 143.910 through 143.925 referred to in this paragraph are as proposed in *64 FR 68480*, December 7, 1999.

149.310 -- What are the requirements for lifesaving equipment that is not required by this subchapter?

Each item of lifesaving equipment on a pumping platform complex that is not required by this subchapter must be approved by the Commandant (G-M).

Subpart D--Fire-Fighting and Fire-Protection Equipment

149.400 -- What does this subpart apply to?

This subpart applies to all manned deepwater ports; except that, for manned deepwater ports in existence on [the effective date of the final rule], this subpart applies on [date 2 years after effective date of the final rule].

149.405 -- What are the general requirements for fire-fighting and fire-protection equipment?

(a) Each deepwater port must comply with the requirements for fire-fighting and fire-protection equipment in □□ 143.1010 through 143.1050 and 143.1060 through 143.1063 of this chapter.

Note: Sections 143.1010 through 143.1050 and 143.1060 through 143.1063 referred to in this paragraph are as proposed in *64 FR 68481-68485,* December 7, 1999.

(b) A fire detection and alarm system on a deepwater port on [the effective date of the final rule.] need not meet the requirements in □ 143.1050 of this chapter until the system needs replacing.

Note: Section 143.1050 referred to in this paragraph is as proposed in *64 FR 68484,* December 7, 1999.

□ 149.410 -- What are the requirements for a fixed fire main system?

Each pumping platform complex must have a fixed fire main system.

□ 149.415 -- What are the requirements for fire pumps?

(a) Each pumping platform complex must have at least two independently driven fire pumps. Each pump must be able to simultaneously deliver two streams of water at a pitot tube pressure of at least 75 p.s.i. measured at each fire hose nozzle.

(b) Each fire pump must have--

(1) A relief valve on its discharge side that is set to relieve at 25 p.s.i. in excess of the pressure necessary to meet the requirement in paragraph (a) of this section;

(2) A pressure gauge on its discharge side; and

(3) Its own sea connection.

(c) Fire pumps may only be connected to the fire main system.

(d) The fire pumps required by paragraph (a) of this section shall be located in separate spaces and the arrangement of pumps, sea connections and sources of power shall be such as to ensure that a fire in any one space will not put all of the fire pumps out of service.

□ 149.420 -- What are the requirements for fire hydrants?

(a) Except for machinery spaces, each part of the pumping platform complex that is accessible to a person must have enough fire hydrants so that it can be reached by at least two hose streams from separate hydrants. At least one hose stream must be from a single length of hose.

(b) Each pumping platform complex must have enough fire hydrants so that each machinery space can be reached by at least two hose streams from separate hydrants. At least one hose stream must be from a single length of hose.

(c) A single length of fire hose, with an attached nozzle, must be connected to each fire hydrant at all times. If the hose is exposed to freezing weather, it may be removed from the location during freezing weather.

(d) The outlet on each fire hydrant must not point above the horizontal.

(e) Each fire hydrant must have a shutoff valve.

(f) Any equipment that is located in the same space as the fire hydrant must not impede access to the hydrant.

(g) Each fire hydrant must have at least one spanner wrench at the fire hydrant.

149.425 -- What are the requirements for fire hoses?

(a) At each fire hydrant, there must be a fire hose rack that is--

(1) Prominently marked;

(2) In an exposed location; and

(3) Protected from freezing weather.

(b) Each length of fire hose must be--

(1) 1 1/2 or 2 1/2 inches (4 or 6 centimeters) nominal hose size diameter;

(2) 50-feet (15-meters) nominal hose size length; and

(3) Lined commercial fire hose that conforms to UL 19.

(c) Each fire hose coupling must--

(1) Be made of brass, bronze, or material that has strength and corrosion resistant properties at least equal to those of brass or bronze; and

(2) Have nine threads per inch for 1 1/2-inch (4-centimeter) hose or seven and a half threads per inch for 2 1/2-inch (6-centimeter) hose.

(d) Each fire hose nozzle must be a combination solid-stream and water-spray fire hose nozzle that is approved under 46 CFR part 162, subpart 162.027. Nozzles approved under that subpart before June 24, 1996, may be retained as long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection (OCMI).

(e) A combination solid-stream and waterspray fire hose nozzle approved under 46 CFR part 162, subpart 162.027, before June 24, 1996, must have a low-velocity water spray applicator (also approved under the provisions of that subpart in effect before June 24, 1996 and contained in the 46 CFR parts 156 to 165 volume revised as of October 1, 1995) when installed--

(1) In a machinery space containing oil fired boilers, internal combustion machinery, or fuel oil units; or

(2) On a helicopter deck.

§ 149.430 -- What are the requirements for fire-fighting equipment that is not required by this subchapter?

Each item of fire-fighting equipment on a pumping platform complex that is not required by this subchapter must be approved by the Commandant (G-M).

Subpart E--Aids to Navigation

General

§ 149.500 -- What does this subpart do?

This subpart provides requirements for aids to navigation on deepwater ports.

§ 149.505 -- What are the general requirements for aids to navigation?

The following requirements apply to aids to navigation under this subpart:

(a) Section 66.01-5 of this chapter on application to establish, maintain, discontinue, change, or transfer ownership of an aid, except as under § 149.510.

(b) Section 66.01-25(a) and (c) of this chapter on discontinuing or removing an aid. For the purposes of § 66.01-25(a) and (c) of this chapter, aids to navigation at a deepwater port are considered Class I aids under § 66.01-15 of this chapter.

(c) Section 66.01-50 of this chapter on protection of an aid from interference and obstruction.

(d) Section 66.01-55 of this chapter on transfer of ownership of an aid.

§ 149.510 -- How do I get permission to establish an aid to navigation?

(a) To establish an aid to navigation on a deepwater port, the licensee must submit an application under § 66.01-5 of this chapter, except the application must be sent to the Commandant (G-M).

(b) At least 180 days before the installation of any structure at the site of a deepwater port, the licensee must submit an application for obstruction lights and other private aids to navigation for the particular construction site.

(c) At least 180 days before beginning oil or natural gas transfer operations or changing the mooring facilities at the deepwater port, the licensee must submit an application for private aids to navigation.

Lights

149.520 -- What kind of lights are required?

(a) Lights required by this subpart must be generated by omnidirectional lanterns or rotating beacons.

(b) An omnidirectional lantern must generate a fan beam, where the beam is concentrated in a horizontal plane.

(c) A rotating beacon must generate one or more pencil beams, where each beam is conical, similar to the beam from a flashlight.

(d) Lanterns and beacons must have a way to focus the light or must be certified by the manufacturer as not requiring focusing.

149.521 -- What is "effective intensity," as used in this subpart?

For the purpose of this subpart, "effective intensity" means the intensity of an intermittent light signal calculated by using the following equation:

$$I[e] = \frac{J}{C + \frac{J}{I[o]}},$$

where I[e] is the effective intensity of the light; I[o] is the maximum intensity of the flash; C is a visual time constant taken to be 0.2 seconds for nighttime observation; and J is the integrated intensity of the flash. J is calculated by the following equation:

$$J = [zeta]<t[2]>[t[1]]I(t)dt,$$

where t[1] is the starting time and t[2] is the ending time for the light. This equation is valid for both flashed and rotated light signals.

149.523 -- What are the requirements for flash intervals?

The flash interval (i.e., time difference between the beginning and end of any single flash) from an omnidirectional lantern must not be less than 0.2 seconds. For lights that are pulsed during the flash interval, the pulse frequency must not be less than 100 Hz.

149.525 -- What are the chromaticity requirements for lights?

The color emitted by a light must be uniform at all angles and in all directions and have chromaticity coordinates lying within the regions defined

by the corner coordinates in table 149.525 of this section, when plotted on the CIE Standard Observer Diagram.

Table 149.525--Chromaticity Coordinates

Color	Chromaticity coordinates x Axis	Chromaticity coordinates y Axis
White	0.285	0.332
	.453	.440
	.500	.440
	.500	.382
	.440	.382
	.285	.264
Green	0.009	0.720
	.284	.520
	.207	.397
	.013	.494
Red	0.665	0.335
	.645	.335
	.680	.300
	.700	.300
Yellow	0.560	0.440
	.555	.435
	.612	.382
	.618	.382

149.527 -- What are the requirements for vertical divergence of lights?

(a) Each light on a buoy, hose string, or SPM must--

(1) Meet the effective intensity required by this subpart within [plusmn]1[deg] from the focal plane of the light for the arc included; and

(2) Meet 50 percent of the effective intensity required by this subpart within [plusmn]2[deg] from the focal plane of the light for the arc.

(b) Each light on a platform must--

(1) Meet the effective intensity required by this subpart within [plusmn]0.5[deg] from the focal plane of the light for the arc included; and

(2) Meet 50 percent of the effective intensity required by this subpart within [plusmn]1[deg] from the focal plane of the light for the arc.

Lights on Platforms

149.530 -- How many obstruction lights must a platform have, and where must they be located?

(a) A platform that is 30 feet (9 meters) or less on any side, or in diameter, must have at least one obstruction light.

(b) A platform that is more than 30 feet (9 meters) but less than 50 feet (15 meters) on any side, or in diameter, must have at least two obstruction lights located as far apart from each other as possible.

(c) A platform that is more than 50 feet (15 meters) on any side must have at least one obstruction light located on each corner.

(d) A circular platform that has a diameter of more than 50 feet (15 meters) must have at least four obstruction lights located as far apart from each other as possible.

(e) Obstruction lights on platforms must be located at least 20 feet (6 meters) above mean high water.

(f) If a platform has more than one obstruction light, the lights must all be located in the same horizontal plane.

(g) At least one obstruction light on a platform must be visible from the water, regardless of the angle of approach to the structure.

149.531 -- What are the required characteristics and intensity of obstruction lights on platforms?

(a) Each obstruction light on a platform must--

(1) Display a white light signal; and

(2) Flash 50 to 70 times per minute.

(b) If a platform has more than one obstruction light, the lights must flash simultaneously.

(c) Each obstruction light on a platform must have an effective intensity of at least 75 candela.

149.533 -- What are the requirements for leveling obstruction lights on platforms?

Each obstruction light on a platform must have--

(a) Mounting hardware that allows the light to be leveled horizontally; and

(b) One or more leveling indicators permanently attached to the light, each with an accuracy of [plusmn]0.25[deg] or better.

149.535 -- What are the requirements for rotating beacons on platforms?

In addition to obstruction lights, the tallest platform of a deepwater port must have a rotating lighted beacon that--

(a) Has an effective intensity of at least 15,000 candela;

(b) Flashes at least once every 20 seconds;

(c) Provides a white light signal;

(d) Operates in wind speeds up to 100 knots at a rotation rate that is within 6 percent of the operating speed displayed on the beacon;

(e) Has one or more leveling indicators permanently attached to the light, each with an accuracy of [plusmn]0.25[deg], or better; and

(f) Is located--

(1) At least 60 feet (18 meters) above mean high water;

(2) Where the structure of the platform, or equipment mounted on the platform, does not obstruct the light in any direction; and

(3) So that it is visible all around the horizon.

Lights on Single Point Moorings

149.540 -- What are the requirements for obstruction lights on an SPM?

(a) An SPM must have at least one obstruction light; provided, however, this subsection (a) shall not be applicable to submerged SPM buoys.

(~~b~~1) At least one obstruction light must be visible from the water, regardless of the angle of approach to the SPM.

(~~c~~2) Obstruction lights on an SPM must be located at least 10 feet (3 meters) above mean high water.

(~~d~~b) If an SPM has more than one obstruction light, the lights must all be installed in the same horizontal plane.

(c) If a submerged SPM buoy is fitted with a messenger line, it shall have a lighted marker.

149.545 -- What are the required characteristics and intensity of obstruction lights on an SPM?

(a) Each obstruction light on an SPM must--

(1) Display a white light signal;

(2) Flash 50 to 70 times per minute; and

(3) Have an effective intensity of at least 15 candela.

(b) If an SPM has more than one obstruction light, the lights must flash simultaneously.

Lights on Floating Hose Strings

§ 149.550 -- What are the requirements for lights on a floating hose string?

(a) A floating hose string must have at least one omnidirectional light, mounted on the hose-end support buoy.

(b) Lights marking the floating hose string must be located at the same height 2 to 5 feet (.6 meters to 1.5 meters) above the surface of the water.

(c) Lights on the hose-end support buoy must be located so that the structure of the buoy, or any other devices mounted on the buoy, do not obstruct the light in any direction.

(d) Additional lights may be installed along the length of the floating hose string. Any additional lights marking the floating hose string must comply with the requirements for lights on the hose-end support buoy.

§ 149.555 -- What are the required characteristics and intensity of lights on a floating hose string?

Each light marking a floating hose string must--

(a) Display a yellow light signal;

(b) Flash 50 to 70 times per minute; and

(c) Have an effective intensity of at least 10 candela.

Lights on Buoys Used to Define Traffic Lanes

§ 149.560 -- How must buoys used to define traffic lanes be marked and lighted?

(a) Each buoy that is used to define the lateral boundaries of a traffic lane at a deepwater port must meet § 62.25 of this chapter.

(b) The buoy must have an omnidirectional light located at least 8 feet (2.4 meters) above the water.

(c) The buoy light must be located so that the structure of the buoy, or any other devices mounted on the buoy, do not obstruct the light in any direction.

§ 149.565 -- What are the required characteristics and intensity of lights on buoys used to define traffic lanes?

(a) The color of the light on a buoy that is used to define the lateral boundaries of a traffic lane must correspond with the color schemes for buoys in § 62.25 of this chapter.

(b) The buoy light may be fixed or flashing. If it is flashing, it must flash at intervals of not more than 6 seconds.

(c) Buoy lights must have an effective intensity of at least 25 candela.

Miscellaneous

149.570 -- How is a platform or SPM identified?

(a) Each platform and non-submerged SPM must display the name of the deepwater port and the name or number identifying the structure, so that the information is visible--

(1) From the water at all angles of approach to the structure; and

(2) If the structure is equipped with a helicopter pad, from aircraft on approach to the structure.

(b) The information required in paragraph (a) of this section must be displayed in numbers and letters that are--

(1) At least 12 inches (30 centimeters) high;

(2) In vertical block style; and

(3) Displayed against a contrasting background.

149.575 -- How must objects protruding from the water, other than platforms and SPM's, be marked?

(a) Each object protruding from the water that is within 100 yards (91 meters) of a platform or SPM must be marked with white reflective tape.

(b) Each object protruding from the water that is more than 100 yards (91 meters) from a platform or SPM must meet the obstruction lighting requirements in this subpart for a platform.

149.580 -- What are the requirements for a radar beacon?

(a) A radar beacon must be located on the tallest platform of a pumping platform complex.

(b) The beacon must meet the following:

(1) Be an FCC-type-accepted radar beacon (RACON).

(2) Transmit--

(i) In both the 2900-3100 MHz and 9300-9500 MHz frequency bands; or

(ii) If installed before July 8, 1991, in the 9320-9500 MHz frequency band.

(3) Transmit a signal of at least 250 milliwatts radiated power that is omnidirectional and polarized in the horizontal plane.

(4) Transmit a two or more element Morse code character, the length of which does not exceed 25 percent of the radar range expected to be used by vessels operating in the area.

(5) If of the frequency agile type, be programmed so that it will respond at least 40 percent of the time but not more than 90 percent of the time with a response time duration of at least 24 seconds.

(6) Be located at a minimum height of 15 feet (4.5 meters) above the highest deck of the platform and where the structure of the platform, or equipment mounted on the platform, does not obstruct the signal propagation in any direction.

149.585 -- What are the requirements for fog signals?

(a) Each pumping platform complex must have a fog signal approved under part 67, subpart 67.10, of this chapter that has a 2-mile (3-kilometer) range. A list of Coast Guard approved fog signals is available from any District Commander.

(b) Each fog signal must be--

(1) Located at least 10 feet (3 meters) but not more than 150 feet (46 meters) above mean high water; and

(2) Located where the structure of the platform, or equipment mounted on it, does not obstruct the sound of the signal in any direction.

Subpart F--Design and Equipment

General

149.600 -- What does this subpart do?

This subpart provides general requirements for equipment and design on deepwater ports.

149.610 -- What must the District Commander be notified of and when?

The District Commander must be notified of the following:

When--	The District Commander must be notified--
(a) Construction of a pipeline, platform, or SPM is planned	At least 30 days before construction begins.
(b) Construction of a pipeline, platform, or SPM begins	Within 24 hours, from the date construction begins, that the lights and fog signals are in use at the construction site.

(c) A light or fog signal is changed during construction	Within 24 hours of the change.
(d) Lights or fog signals used during construction of a platform, buoy, or SPM are replaced by permanent fixtures to meet the requirements of this part	Within 24 hours of the replacement.
(e) The first oil or natural gas transfer operation begins ~~operation begins~~	At least 60 days before the initial delivery of oil or gas to the deepwater port. ~~operation.~~

§ 149.615 -- What construction drawings and specifications are required?

(a) To show compliance with the Act and this subchapter, the licensee must submit to the Commandant (G-M) three copies of--

(1) Each construction drawing and specification; and

(2) Each revision to a drawing and specification.

(b) Each drawing, specification, and revision under paragraph (a) of this section must bear the seal, or a facsimile imprint of the seal, of the registered professional engineer responsible for the accuracy and adequacy of the material.

§ 149.620 -- What happens when the Commandant (G-M) reviews and evaluates the construction drawings and specifications?

(a) The Commandant (G-M) reviews and evaluates construction drawings and specifications to ensure compliance with the Act and this subchapter.

(b) Construction may not begin until the drawings and specifications are approved by the Commandant (G-M).

(c) Once construction begins, the Coast Guard periodically inspects the construction site to ensure that the construction complies with the drawings and specifications approved under paragraph (b) of this section.

(d) When construction is complete, the licensee must submit two complete sets of as-built drawings and specifications to the Commandant (G-M).

§ 149.625 -- What are the design standards?

(a) Each component, except for hoses, mooring lines, and aids to navigation buoys, must be designed to withstand at least the combined wind, wave, and current forces of the most severe storm that can be expected to occur at the deepwater port in any period of 100 years.

Note to § 149.625(a): "Recommended Procedure for Developing Deepwater Ports Design Criteria" describes a method to prepare the wind, wave, and

current criteria for use in determining the forces of the storm described by this paragraph. You may obtain this guide from the Commandant (G-M).

(b) Each port that is contracted for on or after [effective date of final rule.] must be designed according to API RP 2A-WSD (working stress design) or API RP 2A-LRFD (load and resistance factor design) to the extent that they are consistent with this subchapter.

(c) Each electrical installation on a port must be designed, to the extent practicable according to 46 CFR chapter I, subchapter J, (Electrical Equipment).

(d) Each boiler and pressure vessel on a port must be designed according to ASME "Boiler and Pressure Vessel Code," sections I, IV, and VIII, to the extent that they are consistent with this subchapter.

(e) Main oil transfer piping on a port must be designed according to ANSI B 31.4 (Liquid Petroleum Transportation Piping Systems).

(f) Heliports on fixed deepwater ports must be designed according to API RP 2L. Heliports on floating deepwater ports must meet the design requirements for heliports on mobile offshore drilling units in 46 CFR part 108.

Systems Fire Protection

149.630 -- What do the systems fire protection regulations apply to?

Sections 149.635 through 149.690 apply to the following:

(a) Each deepwater port that--

(1) Was contracted for, or the construction of which began, on or after [effective date of final rule.]; or

(2) Underwent a major conversion that began on or after [effective date of final rule.].

(b) When on a deepwater port under paragraph (a)(1) of this section--

(1) Each accommodation module; or

(2) Each temporary accommodation module.

149.640 -- What are the requirements for systems fire protection?

The pumping platform complex must comply with the requirements for systems fire protection in 143.1115 through 143.1135 of this chapter, except for the requirements on Emergency Evacuation Plans under 143.1125 of this chapter.

Note: Sections 143.1115 through 143.1135 referred to in this paragraph are as proposed in *64 FR 68488*, December 7, 1999.

Single Point Moorings

149.650 -- What are the requirements for single point moorings and their attached hoses?

(a) Before operating an SPM and its attached hose, the SPM and hose must meet--

(1) ABS Rules for Building and Classing Single Point Moorings; or

(2) If approved by the Commandant (G-M), the standards of another recognized classification society that provide the same or a greater level of safety.

(b) As evidence of compliance with the standards under paragraph (a) of this section, the licensee must obtain--

(1) An Interim Class Certificate or a Classification Certificate issued by the American Bureau of Shipping (ABS); or

(2) A similar certificate issued under paragraph (a)(2) of this section by another recognized classification society.

(c) The SPM and hose must be maintained in class.

Helicopter Fueling Facilities

149.655 -- What are the requirements for helicopter fueling facilities?

Helicopter fueling facilities must comply with the NFPA 407, part 2-5 (fueling on elevated heliports). For the purposes of this section, "ground level" as used in NFPA 407 means below the lowest platform working level.

Emergency Power

149.660 -- What are the requirements for emergency power?

(a) Each pumping platform complex must have emergency power equipment to provide power to operate simultaneously all of the following for a continuous period of 8 hours:

(1) Emergency lighting circuits.

(2) Aids to navigation equipment.

(3) Communications equipment.

(4) Radar equipment.

(5) Alarm systems.

(6) Electrically operated fire pumps.

(7) Other electrical equipment identified as emergency equipment in the Operations Manual for the deepwater port.

(b) No emergency power generating equipment may be located in any enclosed space on a platform that contains oil transfer pumping equipment or other power generating equipment.

General Alarm System

149.665 -- What are the requirements for a general alarm system?

Each pumping platform complex must have a general alarm system that meets the following:

(a) Is capable of being activated manually by the use of alarm boxes located according to NFPA 72.

(b) Is audible in all parts of the pumping platform complex, except in areas of high ambient noise levels where hearing protection is required under 150.600 of this chapter.

(c) Has a high intensity flashing light in areas where hearing protection is used.

149.670 -- What are the requirements for marking a general alarm system?

Each of the following must be marked with the words "GENERAL ALARM" in yellow letters at least 1-inch high on a red background:

(a) Each general alarm box.

(b) Each audio or visual device under 149.665 for signaling the general alarm.

Public Address System

149.675 -- What are the requirements for the public address system?

Each pumping platform complex must have a public address system operable from two locations on the complex.

Medical Treatment Rooms

149.680 -- What are the requirements for medical treatment rooms?

Each deepwater port with sleeping spaces for 12 or more persons, including persons in accommodation modules and temporary accommodation modules, must have a medical treatment room that has--

(a) A sign at the entrance designating it as a medical treatment room;

(b) An entrance that is wide enough and arranged to readily admit a person on a stretcher;

(c) A single berth or examination table that is accessible from both sides; and

(d) A washbasin located in the room.

§ 149.685 -- May I use a medical treatment room for other purposes?

Yes, you may use a medical treatment room as a sleeping space if the room meets the requirements of this subpart for both medical treatment rooms and sleeping spaces. You may also use it as an office. However, when you use the room for medical purposes, it may not be used as a sleeping space or office.

Miscellaneous

§ 149.690 -- What are the requirements for means of escape, personnel landings, guardrails, and similar devices and for noise limits?—

The deepwater port must comply with §§ 143.1220 through 143.1236 of this chapter on means of escape, personnel landings, guardrails and similar devices, and noise limits.

Note: Sections 143.1220 through 143.1236 referred to in this paragraph are as proposed in *64 FR 68487-68490,* December 7, 1999.

§ 149.695 -- What kind of portable lights may be used on a pumping platform complex?

Each portable light and its supply cord on a pumping platform complex must be designed for the environment where it is used.

PART 150--DEEPWATER PORTS: OPERATIONS

Subpart A--General

Sec.

150.50 What are the requirements for an oil spill response plan?

Subpart B--Inspections
150.100 What are the requirements for inspecting deepwater ports?

Subpart C--(1)-Personnel - Manned Deepwater Ports
150.200 What does this subpart do?
150.205 Who must ensure that personnel are qualified?
150.210 What are the language requirements for personnel?
150.215 What are the restrictions on serving in more than one position?
150.220 What are the qualifications for a Port Superintendent?
150.225 What are the qualifications for a Cargo Transfer Supervisor?
150.230 What are the qualifications for a Vessel Traffic Supervisor?
150.235 What are the qualifications for a Mooring Master?
150.240 What are the qualifications for a Cargo Transfer Assistant?
150.245 What are the qualifications for an Assistant Mooring Master?
150.250 What training and instruction are required?
Subpart C(2)-Personnel - Unmanned Deepwater Ports
150.260 What does this subpart do?
150.265 Who must ensure that personnel are qualified?
150.270 What qualifications shall apply to personnel providing services at an unmanned deepwater port?

Subpart D(1)--Vessel Navigation - Manned Deepwater Ports
150.300 What does this subpart do?
150.310 When is radar surveillance required?
150.320 What advisories are given to tankers?
150.325 What is the first notice required before a tanker enters the safety zone?
150.330 What is the second notice required before a tanker enters the safety zone?
150.340 What are the rules of navigation for tankers in the safety zone?
150.345 How are support vessels cleared to move within the safety zone?
150.350 What are the rules of navigation for support vessels in the safety zone?
150.355 How are other vessels cleared to move within the safety zone?
150.365 What are the responsibilities of the Vessel Traffic Supervisor?
150.370 What are the responsibilities of the Mooring Master?
150.375 What are the responsibilities of the Assistant Mooring Master?
150.380 Under what circumstances may vessels operate within the safety zone?
150.385 What is required in an emergency?

Subpart D(2)-Vessel Navigation - Unmanned Deepwater Ports
150.386 What does this subpart do?
150.387 What navigation requirements apply to unmanned deepwater ports?

Subpart E--Oil and Natural Gas Transfer Operations
150.400 What does this subpart do?

Subpart J --Safety Zones

Authority: *33 U.S.C. 1231*, 1321(j)(1)(c), (j)(5), (j)(6) and (m)(2), *33 U.S.C. 1509*(a); sec. 2, E.O. 12777, 56 54757; 49 CFR 1.46.

Subpart A--General

150.1 -- What does this part do?

This part provides requirements for the operation of deepwater ports.

150.5 -- Where can I find the definition of a term used in this part?

See 148.5 of this chapter for the definition of certain terms used in this part.

150.10 -- What are the general requirements for operations manuals?

(a) Each deepwater port must have an operations manual that is approved by the Commandant (G-M) as meeting the requirements of the Act and this subchapter. The original manual is approved as part of the application process in part 148 of this chapter.

(b) The manual must be readily available on the deepwater port for use by personnel.

(c) The licensee must ensure that all personnel follow the procedures in the manual while at the deepwater port.

150.15 -- What must the operations manual include?

The operations manual required by 150.10 must identify the deepwater port and, to the extent applicable, include the following:

(a) A description of the geographic location of the deepwater port.

(b) A physical description of the port.

(c) A description of the communication system.

(d) A plan of the layout of the mooring areas, aids to navigation, cargo transfer locations, and control stations.

(e) The hours of operation.

(f) The size, type, number, and simultaneous operations of tankers that the port can handle.

(g) The procedures for the navigation of tankers, including--

(1) The operating limits, maneuvering capability, draft, net under-keel clearance, and dimensions of the tanker;

(2) Any special navigation or communication equipment that may be required for operating in the safety zone;

(3) The measures for routing vessels;

(4) Any mooring equipment needed to make up to the SPM;

(5) The procedures for clearing tankers, support vessels, and other vessels during emergency and routine conditions;

(6) Any special illumination requirements for arrival, discharge, and departure operations;

(7) Any special watchstanding requirements for transiting, mooring, or while at anchor;

(8) The hours when a radio watch is maintained and the frequencies monitored;

(9) The weather limits for tankers; and

(10) The duties, title, qualifications, and training of personnel of the port.

(h) The procedures for transferring cargo, including--

(1) The requirements for oil or natural gas transfers;

(2) The shipping name of, and Material Safety Data Sheet on, the product transferred;

(3) The duties, title, qualifications, and training of personnel of the port;

(4) Minimum requirements for watch personnel on board the vessel during transfer operations (i.e., personnel necessary for checking mooring gear, monitoring communications and having propulsion/steering on standby);

(5) The start-up and completion of pumping;

(6) Emergency shutdown;

(7) The maximum relief valve settings, the maximum available working pressure and hydraulic shock to the system without relief valves, or both;

(8) Equipment necessary to discharge cargo to the port ~~complex~~; and

(9) Describe the method to be used to water and de-water the SPM hoses when required.

(i) Unusual arrangements that may be applicable, including--

(1) A list and description of any extraordinary equipment or assistance available to vessels with inadequate pumping capacity, small cargoes, small diameter piping, or inadequate crane capacity; and

(2) A description of special storage or delivery arrangements for unusual cargoes.

(j) Safety and fire protection procedures, including--

(1) Housekeeping and illumination of walking and working areas;

(2) Emergency internal and external notifications;

(3) Quantity, type, location, and use of safety and fire protection equipment;

(4) Personal protection equipment; and

(5) Helicopter landing pad operations.

(k) A port security plan that addresses security issues, including but not be limited to controlling access of personnel and the introduction of goods and material into the deepwater port, monitoring and alerting vessels that approach or enter the port's security zone, identifying risks and procedures for increasing the probability of detecting and deterring terrorist or subversive activity (such as using security lighting and designating restricted areas within the port and remotely alarming them, as appropriate), notification requirements (both internally and externally) and response requirements in the event of a perceived threat or an attack on the port, designating the Port Security Officer, providing positive and verifiable identification of personnel with access to the port, the training (including drills) required for all personnel regarding security issues, and the scalability of actions and procedures for the various levels of threat.

(l) Procedures for any special operations, including--

(1) Evacuation and re-manning procedures;

(2) Refueling operations;

(3) Diving operations;

(4) Support vessel operations; and

(5) Providing logistical services.

(m) The maintenance procedures, tests, and recordkeeping for--

(1) Oil or natural gas transfer equipment;

(2) Fire prevention equipment;

(3) Safety equipment; and

(4) Cranes.

(n) Emergency drills, including--

(1) Type;

(2) Frequency; and

(3) Documentation.

(o) A program for monitoring the environmental effects of the port and its operations in order to maintain compliance with the environmental conditions in the license and applicable environmental laws. The program must provide for the periodic re-examination of the physical, chemical, and biological factors contained in the port's environmental impact analysis and baseline study submitted with the license application.

150.20 -- How many copies of the operations manual must I give to the Coast Guard?

The licensee must give the Commandant (G-M) at least five copies of the original operations manual approved when the deepwater port license was issued and five copies of each subsequent amendment to the manual.

150.25 -- When must I amend the operations manual?

(a) Whenever the Captain of the Port (COTP) finds that the operations manual does not meet the requirements of this part, the COTP notifies the licensee in writing of the inadequacies in the manual.

(b) Within 45 days after the notice under paragraph (a) of this section is sent, the licensee must submit written amendments to eliminate the inadequacies.

(c) The COTP reviews the amendments, makes a determination as the adequacy of the amendments and notifies the licensee of the determination.

(d) If the COTP decides that an amendment is necessary, the amendment goes into effect 60 days after the COTP notifies the licensee of the amendment.

(e) The licensee may petition the Commandant (G-M) to review the decision of the COTP. In this case, the effective date of the amendment is delayed pending the Commandant's decision. Petitions must be made in writing and presented to the COTP for forwarding to the Commandant (G-M).

(f) If the COTP finds that a particular situation requires immediate action to prevent a spill or discharge, or to protect the safety of life and property, the COTP may issue an amendment effective on the date that the licensee receives it. The COTP must include a brief statement of the reasons

for the immediate amendment. The licensee may petition the District Commander for review, but the petition does not delay the effective date of the amendment.

150.30 -- How may I propose an amendment to the operations manual?

(a) The licensee may propose an amendment to the operations manual--

(1) By submitting in writing the amendment and reasons for the amendments to the COTP not less than 30 days before the requested effective date of the amendment; or

(2) If the amendment is needed immediately, by submitting the amendment, and reasons why the amendment is needed immediately, to the COTP in writing.

(b) The COTP responds to a proposed amendment by notifying the licensee, in writing, before the requested date of the amendment whether the request is approved. If the request is disapproved, the COTP includes the reasons for disapproval in the notice. If the request is for an immediate amendment, the COTP responds as soon as possible.

150.35 -- How may an adjacent coastal State request an amendment to the operations manual?

(a) An adjacent coastal State connected by pipeline to the deepwater port may petition the COTP to amend the operations manual. The petition must include sufficient information to allow the COTP to reach a decision concerning the proposed amendment.

(b) After the COTP receives a petition, the COTP requests comments from the licensee.

(c) After reviewing the petition and comments and considering the costs and benefits involved, the COTP may approve the petition if the proposed amendment will provide equivalent or improved protection and safety. The adjacent coastal State may petition the Commandant (G-M) to review the decision of the COTP. Petitions must be made in writing and presented to the COTP for forwarding to the Commandant (G-M) via the District Commander.

150.40 -- When may I deviate from the operations manual?

If, because of a particular situation, the licensee needs to deviate from the operations manual, the licensee must submit a written request to the COTP explaining why the deviation is necessary and what alternative is proposed. If the COTP determines that the deviation would ensure equivalent or greater protection and safety, the COTP authorizes the deviation and notifies the licensee in writing.

150.45 -- In an emergency, when may I deviate from this subchapter or the operations manual?

In an emergency, any person may deviate from any requirement in this subchapter or any procedure in the operations manual to ensure the safety of life, property, or the environment. Each deviation must be reported to the COTP at the earliest possible time.

150.50 -- What are the requirements for an oil spill response plan?

(a) Each deepwater oil port must have an oil spill response plan that meets part 154, subpart F, of this chapter.

(b) The response plan must be submitted to the COTP in writing not less than 60 days before the deepwater port begins operation.

Subpart B--Inspections

150.100 -- What are the requirements for inspecting deepwater ports?

Under the direction of the OCMI, marine inspectors may inspect deepwater ports to determine whether the requirements of this subchapter are met. A marine inspector may conduct an inspection, with or without advance notice, at any time the OCMI deems necessary.

Subpart C—(1) - Personnel - Manned Deepwater Ports

150.200 -- What does this subpart do?

This subpart prescribes qualifications for personnel on manned deepwater ports.

150.205 -- Who must ensure that personnel are qualified?

The licensee must ensure that the individual filling a position meets the qualifications for that position in this subpart.

150.210 -- What are the language requirements for personnel?

Only persons who read, write, and speak English may occupy the following positions:

(a) Port Superintendent.

(b) Cargo Transfer Supervisor.

(c) Cargo Transfer Assistant.

(d) Vessel Traffic Supervisor.

(e) Mooring Master.

(f) Assistant Mooring Master.

150.215 -- What are the restrictions on serving in more than one position?

No person may serve in more than one of the following positions at any one time:

(a) Port Superintendent.

(b) Cargo Transfer Supervisor.

(c) Cargo Transfer Assistant.

(d) Vessel Traffic Supervisor.

(e) Mooring Master.

(f) Assistant Mooring Master.

150.220 -- What are the qualifications for a Port Superintendent?

(a) A Port Superintendent must meet the following:

(1) Have enough experience in managing ~~an~~ oil or natural gas transfer ~~facility~~activities to demonstrate the capability of managing a deepwater port;

(2) Know the operational requirements in this part;

(3) Know the hazards of each product handled at the port;

(4) Know the procedures in the operations manual; and

(5) Be designated as Port Superintendent by the licensee.

(b) The COTP must be notified, in writing, of the designation.

150.225 -- What are the qualifications for a Cargo Transfer Supervisor?

(a) A Cargo Transfer Supervisor must meet the following:

(1) Have enough experience in managing cargo transfers at ~~an oil~~ a transfer facility to demonstrate the capability of managing cargo transfers at a deepwater port.

(2) Have had at least 1 year of continuous employment as supervisor at ~~an oil~~ a transfer facility in charge of offloading ~~tank~~oil ~~vessels~~tankers of 70,000 deadweight tons (DWT) or larger, or liquid or liquefied gas tankers of 30,000 deadweight tons (DWT) or larger.

(3) Have supervised at least 25 cargo transfer evolutions from oil tankers of 70,000 DWT or larger, or have supervised at least 15 cargo transfer evolutions from liquid or liquefied gas tankers of 30,000 DWT or larger, or served in a training capacity for cargo transfer supervisor, in one of the foregoing commodities, at a deepwater port in the United States for at least 1 year.

(4) Know the requirements for oil or natural gas transfer operations in subpart E of this part.

(5) Know the oil or natural gas transfer procedures and transfer control systems, in general, of tankers serviced at the port.

(6) Know the special handling characteristics of each product transferred at the port.

(7) Know the procedures in the operations manual for--

(i) Oil or natural gas transfers;

(ii) Spill or discharge prevention, containment, and cleanup;

(iii) Accidents and emergencies; and

(iv) Voice radio-telecommunications.

(8) Be designated as Cargo Transfer Supervisor by the licensee.

(b) The COTP must be notified, in writing, of the designation.

150.230 -- What are the qualifications for a Vessel Traffic Supervisor?

(a) A Vessel Traffic Supervisor must meet the following:

(1) Have worked with radar plotting and analysis of vessel movement for 1 of the previous 5 years or successfully completed a marine radar operators school acceptable to the Commandant (G-M).

(2) Know the procedures for using the port's radar equipment.

(3) Know the procedures in the operations manual for vessel control and voice radio-telecommunications.

(4) Be designated as Vessel Traffic Supervisor by the licensee.

(b) The COTP must be notified, in writing, of the designation.

150.235 -- What are the qualifications for a Mooring Master?

(a) A Mooring Master must meet the following:

(1) Hold a current merchant mariners license issued by the Coast Guard under 46 CFR part 10 as--

(i) A master of ocean steam or motor vessels of any gross tons, endorsed as radar observer, and have 1 year of experience as--

(A) ~~A~~With respect to oil, a master on tankers of 70,000 DWT or larger and have satisfactorily completed a very-large-crude-carrier (VLCC) shiphandling course acceptable to the Commandant (G-M); or

(B) ~~A~~With respect to oil, a Mooring Master at any deepwater port servicing tankers of 70,000 DWT or larger; or

(C) With respect to natural gas, a master on tankers of 30,000 DWT or larger and having satisfactorily completed a shiphandling course acceptable to the Commandant (G-M); or

(D) With respect to natural gas, a Mooring Master at any deepwater port servicing tankers of 30,000 DWT or larger.

(ii) Master of ocean steam or motor vessels of limited tonnage, endorsed as radar observer, and endorsed as first-class pilot of vessels of any gross tons for at least one port in the area of the deepwater port, and have one year of experience--

(A) Piloting ocean going vessels, including oil tankers of 70,000 DWT or larger~~;~~, or liquid or liquefied gas tankers of 30,000 DWT or larger;

(B) As assistant mooring master at the facility and satisfactorily completed a very-large-crude-carrier (VLCC) shiphandling course or other shiphandling course acceptable to the Commandant (G-M); or

(iii) Master of ocean steam or motor vessels of limited tonnage or chief mate of ocean, steam, or motor vessels of unlimited tonnage with 1-year experience in charge of an offshore crude oil lightering operation.

(2) Know the procedures in the operations manual for--

(i) Vessel control;

(ii) Vessel responsibilities;

(iii) Spill prevention, containment, and cleanup;

(iv) Accidents and emergencies; and

(v) Voice radio-telecommunications.

(3) Be designated as Mooring Master by the licensee.

(b) The COTP must be notified, in writing, of the designation.

(c) Applicants for Mooring Master must have observed 20 mooring evolutions at a deepwater port.

150.240 -- What are the qualifications for a Cargo Transfer Assistant?

(a) A Cargo Transfer Assistant must meet the following:

(1) Have 1 year of experience, or must have performed 15 cargo transfer evolutions, ~~at an oil~~in one of the following commodities, at a transfer facility servicing oil tankers of 70,000 DWT or larger, or liquid or liquefied gas tankers of 30,000 DWT or larger. This experience must include connecting and disconnecting tankers to a floating hose string for a single point mooring.

(2) Know the requirements for oil or natural gas transfer operations in subpart E of this part.

(3) Know the oil or natural gas transfer procedures and transfer control systems, in general, of tankers serviced at the facility.

(4) Know the special handling characteristics of each product to be transferred.

(5) Know the procedures in the operations manual for--

(i) Oil transfers;

(ii) natural gas transfers;

(~~ii~~iii) Spill prevention, containment, and cleanup;

(~~iii~~iv) Accidents and emergencies; and

(~~iv~~v) Voice radio-telecommunications.

(6) Be designated as Cargo Transfer Assistant by the licensee.

(b) This designation must be kept in writing at the deepwater port.

150.245 -- What are the qualifications for an Assistant Mooring Master?

(a) An Assistant Mooring Master must meet the following:

(1) Hold a current merchant mariners license issued by the Coast Guard under 46 CFR part 10 as--

(i) A master of ocean steam or motor vessels of any gross tonnage, endorsed as radar observer, and have 6-months experience as master or chief mate on oil tankers of 70,000 DWT or larger, or on liquid or liquefied gas tankers of 30,000 DWT or larger; or

(ii) A master of ocean steam or motor vessels of limited tonnage, endorsed as radar observer, and endorsed as first-class pilot of vessels of any gross tonnage for at least one port in the area of the deepwater port.

(2) Know the procedures in the operations manual for--

(i) Vessel control;

(ii) Vessel responsibilities;

(iii) Spill prevention, containment, and cleanup;

(iv) Accidents and emergencies; and

(v) Voice radio-telecommunications.

(3) Be designated as Assistant Mooring Master by the licensee.

(b) The COTP must be notified in writing of the designation.

150.250 -- What training and instruction are required?

Personnel must receive training and instruction under □□ 143.510 and 143.515 of this chapter. [*Note:* Sections 143.510 and 143.515 referred to in this paragraph are as proposed in *64 FR 68473,* December 7, 1999.]

Subpart C(2) Personnel - Unmanned Deepwater Ports

150.260 - What does this subpart do?

This subpart prescribes qualifications for personnel on unmanned deepwater ports.

150.265 - Who must ensure that personnel are qualified?

The licensee must ensure that the individual filling a position meet the qualifications for that position in this subpart.

150.270 - What qualifications shall apply to personnel providing services at an unmanned deepwater port?

The qualifications for personnel at an unmanned deepwater port shall be established by the Commandant (G-M), in consultation with the COTP. Such qualifications will be based on a manning analysis conducted by the applicant, the results of which shall be submitted for approval by the Commandant (G-M) and the COTP. The analysis shall identify the personnel required to provide services at an unmanned deepwater port, together with titles for such personnel and the functions of each. Following approval by the Commandant (G-M) and the COTP, such information shall be set forth as a part of the operations manual required by Subpart A.

Subpart D(1)--Vessel Navigation - Manned Deepwater Ports

□ **150.300 -- What does this subpart do?**

(a) ~~This~~For manned deepwater ports, this subpart prescribes requirements that--

(1) Apply to the navigation of all vessels at or near a deepwater port; and

(2) Describe the activities that vessels may or may not engage in a safety zone under subpart J of this part.

(b) These requirements supplement the International Regulations for Preventing Collisions at Sea (COLREGS).

□ **150.310 -- When is radar surveillance required?**

The Vessel Traffic Supervisor must maintain radar surveillance of the safety zone when--

(a) A tanker is proceeding to the safety zone after submitting the report required in □ 150.325;

(b) A tanker or support vessel is underway in the safety zone; or

(c) A vessel other than a tanker or support vessel is about to enter or is underway in the safety zone.

§ 150.320 -- What advisories are given to tankers?

The Vessel Traffic Supervisor must advise the master of each tanker underway in the safety zone of the following:

(a) At intervals not exceeding 10 minutes, the vessel's position by range and bearing from the pumping platform complex._

(b) The position and the estimated course and speed, if moving, of all other vessels that may interfere with the movement of the tanker within the safety zone.

§ 150.325 -- What is the first notice required before a tanker enters the safety zone?

(a) The owner, master, agent, or person in charge of a tanker bound for a deepwater port must report the following information to the Vessel Traffic Supervisor of the port and to the COTP at least 96 hours before entering the safety zone at the port:

(1) The name, gross tonnage, and draft of the tanker.

(2) The type and amount of cargo in the tanker.

(3) The location of the tanker at the time of the report.

(4) Any conditions on the tanker that may impair its navigation, such as fire or malfunctioning propulsion, steering, navigational, or radiotelephone equipment. The testing requirements in § 164.25 of this chapter are applicable to vessels arriving at a deepwater port.

(5) Any leaks, structural damage, or machinery malfunctions that may impair cargo transfer operations or cause a discharge of oil.

(6) The operational condition of the equipment listed under § 164.35 of this chapter on the tanker.

(b) If the estimated time of arrival changes by more than 6 hours from the last reported time, the COTP and Vessel Traffic Supervisor of the port must be notified of the correction as soon as the change is known.

(c) If the information reported in paragraphs (a)(4) or (a)(5) of this section changes at any time before the tanker enters the safety zone at the deepwater port, or while the tanker is in the safety zone, the master of the tanker must report the changes to the COTP and Vessel Traffic Supervisor of the port as soon as possible.

(d) In addition to the requirements in paragraphs (a), (b), and (c) of this section, the notice of arrival requirements in § 160.207 of this chapter are applicable to vessels arriving at a deepwater port.

150.330 -- What is the second notice required before a tanker enters the safety zone?

When a tanker bound for a deepwater port is 20 miles (32 kilometers) from the entrance to the port's safety zone, the master of the tanker must notify the port's Vessel Traffic Supervisor of the tanker's name and location.

150.340 -- What are the rules of navigation for tankers in the safety zone?

(a) A tanker must not enter or depart a safety zone except within a designated safety fairway.

(b) A tanker must not anchor in the safety zone except in a designated anchorage area.

(c) A tanker underway in a safety zone must keep at least 5 miles (8 kilometers) behind any other tanker underway ahead of it in the safety zone.

(d) A tanker must not operate, anchor, or moor in any area of the safety zone in which the net under-keel clearance would be less than 5 feet (1.5 meters).

150.345 -- How are support vessels cleared to move within the safety zone?

All movements of support vessels within the safety zone must be cleared in advance by the Vessel Traffic Supervisor.

150.350 -- What are the rules of navigation for support vessels in the safety zone?

A support vessel must not anchor in the safety zone, except--

(a) In an anchorage area; or

(b) For vessel maintenance that is cleared by the Vessel Traffic Supervisor.

150.355 -- How are other vessels cleared to move within the safety zone?

(a) The Vessel Traffic Supervisor's clearance is required before a vessel, other than a tanker or support vessel, is allowed to enter the safety zone.

(b) The Vessel Traffic Supervisor may clear a vessel under paragraph (a) of this section only if its entry into the safety zone would not--

(1) Interfere with the purpose of the deepwater port;

(2) Endanger the safety of life or property or the environment; or

(3) Otherwise be prohibited by regulation.

150.365 -- What are the responsibilities of the Vessel Traffic Supervisor?

(a) The Vessel Traffic Supervisor controls the movement of vessels entering, moving within, and departing the safety zone around a deepwater port.

(b) The Vessel Traffic Supervisor must provide information concerning other vessels underway or moored in the safety zone.

(c) If the Vessel Traffic Supervisor determines that a vessel may be in danger with respect to any other vessel in the safety zone or to any part of the deepwater port, the Vessel Traffic Supervisor must attempt to inform the vessel's master by radio or by other means.

150.370 -- What are the responsibilities of the Mooring Master?

(a) A Mooring Master must be onboard each tanker when it is underway in the safety zone.

(b) The Mooring Master must advise the master of the tanker on operational and ship-control matters that are particular to the specific deepwater port, such as--

(1) The port's navigational aids;

(2) The depth and current characteristics of the maneuvering area;

(3) The mooring equipment and procedures; and

(4) The port's vessel traffic control procedures.

150.375 -- What are the responsibilities of the Assistant Mooring Master?

When a tanker is mooring at an SPM, an Assistant Mooring Master must be stationed on the forecastle of the tanker to assist the Mooring Master by--

(a) Reporting position approach data relative to the SPM; and

(b) Advising the tanker personnel in the handling of mooring equipment peculiar to the deepwater port.

150.380 -- Under what circumstances may vessels operate within the safety zone?

(a) Table 150.380(a) of this section lists the areas within a safety zone where a vessel may operate and the clearance needed for that location.

Table 150.380(a).--Regulated Activities of Vessels at Deepwater Ports

	Safety Zone

Regulated Activities	Areas to be avoided around each platform pumping complex and SPM fn1	Anchorage areas	Other areas within safety zone
1. Tankers calling at port	C	C	C
2. Support vessel movements	C	C	C
3. Transit by vessels other than tankers or support vessels	N	P	P
4. Mooring to SPM by vessels other than tankers or support vessels	F		
5. Anchoring by vessels other than tankers or support vessels	N	F	N
6. Fishing, including bottom trawl (shrimping)	N	P	P
7. Mobile drilling operations or erection of structures fn2	N	N	N
8. Lightering/transshipment fn3	N	N	N

fn1 Areas to be avoided are in subpart J of this part.

fn2 Not part of Port Installation.

fn3 Exception, 33 CFR 150.440(e).

Key to regulated activities: F--Only in an emergency. N--Not permitted. C--Movement of the vessel is permitted when cleared by the Vessel Traffic Supervisor. P--Transit is permitted when the vessel is not in the immediate area of a tanker and when cleared by the Vessel Traffic Supervisor. Communication with the Vessel Traffic Supervisor is required. For transiting foreign-flag vessels, the requirement for clearance to enter the safety zone is advisory in nature.

(b) If the activity is not listed in table 150.380(a) of this section or is not otherwise provided for in this subpart, the COTP's permission is required first.

150.385 -- What is required in an emergency?

In an emergency for the protection of life or property, a vessel may deviate from a vessel movement requirement in this subpart without clearance from the Vessel Traffic Supervisor if the master advises the Vessel Traffic Supervisor of the reasons for the deviation at the earliest possible moment.

Subpart D(2) - Vessel Navigation - Unmanned Deepwater Ports

150.386 - What does this subpart do?

This subpart prescribes the requirements applicable to vessels at or near an unmanned deepwater port.

150.387 - What navigation requirements apply to unmanned deepwater ports?

The navigational requirements applicable at or near an unmanned deepwater port shall be established by the Commandant (G-M), in consultation with the COTP. Such requirements will be based on an analysis conducted by the applicant, the results of which shall be submitted for approval by the Commandant (G-M) and the COTP, and, following such approval, shall be set forth as a part of the operations manual required by Subpart A.

Subpart E--Oil and Natural Gas Transfer Operations

150.400 -- What does this subpart do?

This subpart prescribes rules that apply to the transfer of oil or natural gas at a deepwater port.

150.405 -- How must an Oil Transfer System (OTS) or a Natural Gas Transfer System (NGTS) be tested and inspected?

(a) No person may transfer oil through an OTS or natural gas through an NGTS at a deepwater port unless it has been inspected and tested according to this section.

(b) The SPM-OTS or SPM-NGTS must be maintained as required by the ABS Rules for Building and Classing Single Point Moorings or the ABS Guide for Building and Classing Offshore LNG Terminals (May 2002) or by the rules for maintenance of an SPM-OTS or SPM-NGTS of another classification society approved by the Commandant (G-M).

(c) If the manufacturer's maximum pressure rating for any oil or natural gas transfer hose in the SPM-OTS or SPM-NGTS has been exceeded (unless it was exceeded for testing required by this section), the hose must be--

(1) Removed;

(2) Hydrostatically tested to 1.5 times its maximum working pressure; and

(3) Visually examined externally and internally for evidence of--

(i) Leakage;

(ii) Loose covers;

(iii) Kinks;

(iv) Bulges;

(v) Soft spots; and

(vi) Gouges, cuts, or slashes that penetrate the hose reinforcement.

(d) Each submarine hose used in oil transfer operations in the SPM-OTS must have been removed from its coupling, surfaced, and examined as described in paragraphs (c)(2) and (c)(3) of this section within the preceding 2 years; and

(e) Before resuming oil transfer operations, each submarine hose in the SPM-OTS must be visually examined in place as described in paragraph (c)(3) of this section after ~~oil~~ transfer operations are shut down due to sea conditions at the deepwater port.

150.420 -- What actions must be taken when oil or natural gas transfer equipment is defective?

When any piece of equipment involved in ~~oil~~ transfer operations is defective--

(a) The piece of equipment must be replaced or repaired before making any further ~~oil~~ transfers; and

(b) The repaired or replaced piece must meet or exceed its original specifications.

150.425 -- What are the requirements for transferring oil or natural gas?

No person may transfer oil through an OTS or natural gas through an NGTS unless the following occur:

(a) Before connecting the hose string to the vessel manifold at the start of each ~~oil~~ transfer operation, the hose string in use for that transfer operation must be visually examined and found to have no--

(1) Leakage;

(2) Loose covers;

(3) Kinks;

(4) Bulges;

(5) Soft spots; and

(6) Gouges, cuts, or slashes that penetrate the hose reinforcement.

(b) During each ~~oil~~ transfer operation, the hose string in use for that transfer operation must be visually examined for leakage.

(c) The vessel's mooring attachment to the SPM must be strong enough to hold in all expected conditions of surge, current, and weather.

(d) The ~~oil~~ transfer hoses must be long enough to allow the vessel to move to the limits of its mooring attachment to the SPM without placing strain on the hoses.

(e) Each ~~oil~~ transfer hose must be supported in a manner that prevents strain on its coupling.

(f) Each part of the OTS or NGTS necessary to allow the flow of oil or natural gas must be lined up for the transfer.

(g) Each part of the OTS or NGTS not necessary for the transfer operation must be securely blanked or shut off.

(h) Except when used to receive or discharge ballast, each overboard discharge or sea suction valve that is connected to the vessel's oil transfer, ballast, or cargo tank systems must be sealed, lashed, or locked in the closed position.

(i) Each connection in the OTS or NGTS must meet § 150.430.

(j) The discharge containment and removal material and equipment required by the deepwater port's response plan must be in place.

(k) Each scupper and overboard drain on the vessel must be closed.

(l) The drip pan under the vessel manifold, if applicable, must not overflow.

(m) The communications equipment required by § 149.140 of this chapter must be tested and found operational for the transfer operation.

(n) The means of emergency shutdown must be in position and operative.

(o) The Cargo Transfer Supervisor, Cargo Transfer Assistant, and any other required personnel must be on duty and present to conduct the transfer operations according to the operations manual and the ~~oil~~ transfer procedures that apply to the vessel during transfer operations.

(p) The vessel's officer in charge of cargo transfers and the port's Cargo Transfer Assistant must have held a conference and each must understand the following details of the transfer operation:

(1) The identity of the product to be transferred.

(2) The sequence of transfer operations.

(3) The transfer rate.

(4) The name or title and location of each person participating in the transfer operation.

(5) The particulars of the transferring and receiving systems.

(6) The critical stages of the transfer operation.

(7) The Federal regulations that apply to the transfer of oil or natural gas.

(8) The emergency procedures.

(9) The discharge containment procedures.

(10) The discharge reporting procedures.

(11) The watch or shift arrangement, if applicable.

(12) The transfer shutdown procedures.

(q) The vessel's officer in charge of cargo transfers and Cargo Transfer Assistant must agree to begin the transfer operation.

(r) The flame screens must be structurally sound and securely fastened in place in all cargo tank vents and ullage holes on the vessel.

(s) The declaration of inspection required by § 150.435 is completed.

§ 150.430 -- What are the requirements for connections to vessels?

(a) ~~The~~Except as set forth in subparagraph (c), the licensee must provide adapters that allow connection of the hose string to the vessel manifold. The adapters must meet the design and material standards of any one of the following:

(1) American National Standards Institute (ANSI).

(2) British Standard (BS).

(3) German Standard (DIN).

(4) Japanese Industrial Standard (JIS).

(5) Universal Metric Standard.

(b) Each temporary connection between the hose string and a vessel manifold must meet the following:

(1) Be made using either--

(i) A bolted coupling; or

(ii) A quick-connect coupling acceptable to the Commandant (G-M).

(2) Have suitable materials in joints and couplings to make a tight seal.

(3) If using an ANSI-standard bolted flange coupling, have a bolt in at least every other hole of the coupling and in no case less than four bolts.

(4) If using a bolted flange coupling other than ANSI-standard coupling, have a bolt in each hole of the coupling.

(5) Have bolts in a bolted coupling that are all--

(i) The same size;

(ii) Tightened so they uniformly distribute the load around the coupling; and

(iii) Free of any signs of strain, elongation, or deterioration.

(6) Made and broken under the direct supervision of the Cargo Transfer Assistant.

(c) For proprietary connection systems, the licensee shall provide a certificate evidencing the compatibility of the connection system and the SPM.

§ 150.435 -- What are the requirements for a declaration of inspection?

(a) No person may transfer oil, natural gas or hazardous materials from a tanker to a deepwater port unless a declaration of inspection meeting § 156.150(c) of this chapter has been filled out and signed by the vessel's officer in charge of cargo transfer and the Cargo Transfer Assistant or, in the case of an unmanned deepwater port, the person designated in the operations manual as authorized to sign such declaration.

(b) Before signing a declaration of inspection, the vessel's officer in charge of cargo transfer must inspect the tanker and the Cargo Transfer Assistant must inspect the deepwater port. They must indicate by initialing each item on the declaration of inspection form that the tanker and deepwater port meet § 156.150 of this chapter.

§ 150.440 -- When are oil or natural gas transfers not allowed?

(a) No person may transfer oil at a deepwater port--

(~~a~~1) When the Port Superintendent is not on duty at the port;

(~~b~~2) During an electrical storm in the port's vicinity;

(~~c~~3) During a fire at the port, at the onshore receiving terminal, or aboard a vessel berthed at the port, unless the Port Superintendent determines that ~~an oil~~a transfer should be resumed as a safety measure;

(~~d~~4) When there are not enough personnel and equipment at the port dedicated to contain and remove the discharges as specified in the port's response plan under part 154 of this chapter;

(~~e~~5) By lighterage, except in bunkering operations, unless otherwise authorized by the COTP; or

(~~f~~6) When the weather at the port does not meet the minimum operating conditions for ~~oil~~ transfers in the port's operations manual.

(b) No person may transfer natural gas at a deepwater port unless in compliance with the operations manual.

§ 150.445 -- How may the COTP order suspension of oil or natural gas transfers?

(a) In case of emergency, the COTP may order the suspension of ~~oil~~ transfers at a port to prevent the discharge, or threat of discharge, of oil or natural gas or to protect the safety of life and property.

(b) An order of suspension may be made effective immediately.

(c) The order of suspension must state the reasons for the suspension.

(d) The licensee may petition the District Commander in writing, or by any means if the suspension is effective immediately, to reconsider the order of suspension. The decision of the District Commander is considered final agency action.

150.447 -- When is oil in an SPM-OTS displaced with water?

The Port Superintendent must ensure that the oil in an SPM-OTS is displaced with water and that the valve at the pipeline end manifold is closed whenever--

(a) A storm warning is received forecasting weather conditions that will exceed the design operating criteria listed in the operations manual for the SPM-OTS;

(b) A vessel is about to depart the SPM because of storm conditions; or

(c) The SPM is not scheduled for use in an oil transfer operation within the next 7 days.

Subpart FG--Operations

150.500 -- What does this subpart do?

This subpart concerns operations at a deepwater port.

150.505 -- How must emergency equipment be maintained and repaired?

All lifesaving, fire-fighting, and other emergency equipment required by Part 149 of this regulation at a manned deepwater port must be maintained and repaired according to 143.610 through 143.645 of this chapter. [*Note:* Sections 143.610 through 143.645 referred to in this paragraph are as proposed in *64 FR 68473-68475,* December 7, 1999.]

150.510 -- How must emergency equipment be tested and inspected?

All lifesaving, fire-fighting, and other emergency equipment required by Part 149 at a deepwater port must be tested and inspected according to 143.710 through 143.765 of this chapter. [*Note:* Sections 143.710 through 143.765 referred to in this paragraph are as proposed in *64 FR 68474-68475,* December 7, 1999.]

150.515 -- What may the fire main system be used for?

The fire main system may be used only for fire fighting and for deck washing.

150.520 -- How many fire pumps on a pumping platform complex must be kept ready for use at all times?

At least one of the fire pumps required by this subchapter must be kept ready for use at all times.

150.525 -- What are the requirements for connection and stowage of firehoses on a pumping platform complex?

(a) At least one length of firehose with a combination nozzle must be connected to each fire hydrant at all times. If in a location exposed to the weather, the firehose may be removed from the hydrant during freezing weather.

(b) When not in use, firehose connected to a fire hydrant must be stowed on a hose rack.

(c) If the edge of a platform deck is in an exposed location, the hydrant nearest that edge must have enough lengths of firehose connected to it to allow 10 feet (3 meters) of hose, when pressurized, to curve over the edge.

150.530 -- What are the restrictions on fueling aircraft?

If the deepwater port is not equipped with a permanent fueling facility, the COTP's approval is necessary before aircraft may be fueled at the port.

150.535 -- What are the requirements for the muster list on a pumping platform complex?

(a) A muster list must be posted on each pumping platform complex.

(b) The muster list must--

(1) List the name and title of each person, in order of succession, who is the person in charge of the pumping platform complex for purposes of supervision during an emergency.

(2) List the special duties and duty stations for each person on the pumping platform complex in the event of an emergency that requires the use of equipment covered by part 149 of this chapter; and

(3) Identify the signals for calling persons to their emergency stations and for abandoning the pumping platform complex.

Subpart GH--Workplace Safety and Health

150.600 -- What are the requirements for workplace safety and health?

The requirements for workplace safety and health in part 142 of this chapter must be complied with on each deepwater port. [*Note:* Part 142 referred to in this paragraph is as proposed in *64 FR 68457-68467,* December 7, 1999.]

Subpart HI--Aids to Navigation

150.700 -- What does this subpart do?

This subpart provides requirements for the operation of aids to navigation at a deepwater port.

150.705 -- What are the requirements for the maintaining and inspecting aids to navigation?

(a) All required aids to navigation must be maintained in proper operating condition at all times.

(b) The Coast Guard may inspect all aids to navigation at any time without notice.

150.710 -- What are the requirements for supplying power to aids to navigation?

The power to all aids to navigation must be maintained, at all times, at or above the level recommended by the equipment's manufacturer.

150.715 -- What are the requirements for lights used as aids to navigation?

(a) Each light under part 149, subpart E, of this chapter required to be used as an aid to navigation at a deepwater port must be lit continuously from sunset to sunrise.

(b) During construction, a platform or floating SPM must be marked with at least one of the following:

(1) The obstruction lights required for the structure in part 149, subpart E, of this chapter.

(2) The fixed lights of a vessel attending the structure.

(3) The general illumination lights on the structure, if they meet or exceed the intensity required for obstruction lights required for the structure.

(c) The focal plane of each obstruction light and rotating lighted beacon must always coincide with the horizontal plane that passes through the light source.

150.720 -- What are the requirements for fog signals?

(a) The fog signal on each pumping platform complex must be operated whenever the visibility in any horizontal direction from the structure is less than 5 miles (8 kilometers).

(b) If, during construction of a platform, the requirements in paragraph (a) of this section can not be met, a 2-second whistle blast made every 20 seconds by a vessel moored at the platform must be used instead of a fog signal.

Subpart ~~I~~J--Reports and Records

150.800 -- What does this subpart do?

This subpart concerns reports that must be submitted, and records that must be kept, by the licensee.

Reports

150.805 -- What reports must I send both to a classification society and to the Coast Guard?

A copy of each report submitted to ABS (or other classification society approved by the Coast Guard) for maintenance of an SPM's class under the rules of that society for the building and classing of SPM's must also be submitted the Commandant (G-M).

150.810 -- How do I report a problem with an aid to navigation?

(a) Any problem affecting the operation or characteristics of an aid to navigation at the deepwater port must be reported, by the fastest means available, to the District Commander. The report must identify--

(1) The aid to navigation affected;

(2) The location of that aid;

(3) The nature of the problem; and

(4) The estimated time of repair.

(b) When the problem is corrected, the District Commander must be notified.

150.815 -- How do I report a casualty?

(a) Immediately after aiding the injured and stabilizing the situation, the owner, operator, or person in charge of a deepwater port must notify the nearest Marine Safety Office, Coast Guard Activity, or Coast Guard Group Office of each event on or involving the deepwater port that results in one or more of the following:

(1) Death.

(2) Injury to five or more persons.

(3) Injury to a person requiring hospitalization for more than 48 hours within 5 days of the event.

(4) A fractured bone (other than in a finger, toe, or nose); a loss of a limb; severe hemorrhaging; severe damage to a muscle, nerve, or tendon; or damage to an internal organ.

(5) Impairment to the operation of any of the port's primary lifesaving or fire-fighting equipment.

(6) Property damage in excess of $ 100,000, including damage resulting from a vessel or aircraft striking the port. This amount includes the cost of labor and material to restore all affected items, including, but not limited to, the port and the vessel or aircraft to their condition before the damage. This amount does not include the cost of salvage, cleaning, gas freeing, drydocking, or demurrage of the port, vessel, or aircraft.

(b) The notice under paragraph (a) of this section must identify the following:

(1) The deepwater port involved.

(2) The owner, operator, or person in charge of the port.

(3) The nature and circumstances of the event.

(4) The nature and extent of the injury and damage resulting from the event.

§ 150.820 -- When must I submit a written report of casualty and what must it contain?

(a) In addition to the notice of casualty under § 150.815, the owner, operator, or person in charge of a deepwater port must submit a written report of the event to the nearest OCMI within 10 days after the notice of casualty. The report may be on Form 2692 (Report of Marine Accident, Injury, or Death) or in narrative form if it contains all of the applicable information requested in Form 2692. Copies of Form 2692 are available from the OCMI.

(b) The written report must also include the information relating to alcohol and drug involvement specified by 46 CFR 4.05-12.

(c) If filed immediately after the event, the written report required by paragraph (a) of this section serves as the notice required under § 150.815.

§ 150.825 -- How must I report a diving-related casualty?

Diving-related deaths and injuries within the safety zone of a deepwater port must be reported according to 46 CFR 197.484 and 197.486, rather than to [illegible] 150.815 and 150.820.

[illegible] 150.830 -- How must I report a pollution incident?

Oil pollution incidents involving a deepwater port are reported according to [illegible] 135.305 and 135.307 of this chapter.

[illegible] 150.835 -- How must I report sabotage or a subversive activity?

The owner, operator, or person in charge of a deepwater port must immediately report to the COTP, by the fastest possible means, any evidence of sabotage or subversive activity against any vessel at the deepwater port or against the deepwater port itself.

Records

[illegible] 150.840 -- What records must I keep?

(a) The licensee must keep copies at the deepwater port of the reports, records, test results, and operating data required by this part.

(b) The copies must be readily available to Coast Guard inspectors.

(c) Except for personnel records under [illegible] 150.845, the copies must be kept for 3 years.

[illegible] 150.845 -- What personnel records must I keep?

(a) The licensee of a manned deepwater port must keep documentation on the designation and qualification under subpart C(1) of this part of the following individuals:

(~~a~~1) Port Superintendent.

(~~b~~2) Cargo Transfer Supervisor.

(~~c~~3) Cargo Transfer Assistant.

(~~d~~4) Vessel Traffic Supervisor.

(e5) Mooring Master.

(~~f~~6) Assistant Mooring Master.

(b) The licensee of an unmanned deepwater port must keep documentation on the designation and qualification of those persons identified pursuant to subpart C(2) of this part and set forth in a licensee's operations manual

§ 150.850 -- How long must I keep a declaration of inspection form?

The licensee must keep signed copies of the declaration of inspection forms required by § 150.435 for one month from the date of signature.

Subpart ~~J~~K--Safety Zones

§ 150.900 -- What does this subpart do?

(a) This subpart provides requirements for the establishment, restrictions, and location of safety zones around deepwater ports.

(b) Subpart D of this part, concerning vessel navigation and activities permitted and prohibited at deepwater ports, applies within safety zones and their adjacent waters and supplements the International Regulations for Preventing Collisions at Sea.

(c) Shipping safety fairways associated with deepwater ports are described in part 166 of this chapter.

§ 150.905 -- Why are safety zones established?

Safety zones under this subchapter are established to promote safety of life and property, marine environmental protection, and navigational safety at deepwater ports and adjacent waters. Safety zones accomplish these objectives by preventing or controlling specific activities, limiting access by vessels or persons, and by protecting the living resources of the sea from harmful agents.

§ 150.910 -- What installations, structures, or activities are prohibited in a safety zone?

No installations, structures, or activities that are incompatible with port operations are allowed in the safety zone of a deepwater port.

§ 150.915 -- How are safety zones established and modified?

(a) A safety zone is developed and designated during the application process for a deepwater port license and may be modified according to this section.

(b) Before a safety zone is established, all factors detrimental to safety, including the congestion of vessels, the presence of unusually harmful or hazardous substances, and the presence of obstructions around the site of the deepwater port, are considered.

(c) The District Commander may modify a safety zone by publishing a notice of proposed rulemaking in the Federal Register and providing an opportunity for public comment. After considering the comments, the District Commander may publish a final rule modifying the zone and its regulations.

(d) When there is an imminent threat to the safety of life and property within the zone, the District Commander may modify the safety zone and its regulations in an interim rule without first publishing a notice of proposed rulemaking. The interim rule makes the safety zone and its regulations effective on publication in the Federal Register and requests public comments. After considering the comments received, the District Commander publishes a final rule, which may adopt the interim rule with or without changes or remove it.

(e) If required by circumstances, safety zones may be placed into effect immediately but must be followed promptly by the procedures in paragraph (d) of this section.

§ 150.920 -- How am I notified of new or proposed safety zones?

In addition to documents published in the Federal Register under § 150.915, the District Commander may provide public notice of new or proposed safety zones by Broadcast Notices to Mariners, Notices to Mariners, Local Notices to Mariners, newspapers, and broadcast stations, or other means.

§ 150.925 -- How long may a safety zone last?

A safety zone and its regulations may go into effect as early as when equipment and materials for construction of the deepwater port arrive at the zone and may remain in effect until the deepwater port is removed.

§ 150.930 -- What datum is used for the geographic coordinates in this subpart?

The geographic coordinates used in this subpart are not intended for plotting on charts or maps using coordinates based on the North American Datum of 1983 (NAD 83). If you use the geographic coordinates in this subpart to plot on a chart or map referencing NAD 83, you must make corrections as shown on the chart or map.

§ 150.935 -- What is the safety zone for LOOP?

(a) *Location.* The safety zone for the Louisiana Offshore Oil Port (LOOP) is as follows:

Table 150.155(A).--Safety Zone for Loop, Gulf of Mexico

	Latitude N.	Longitude W.
(1) Starting at:		
	28[degrees]55'23"	90[degrees]00'37"
(2) A rhumb line to:		
	28[degrees]53'50"	90[degrees]04'07"

(3) Then an arc with a 4,465 meter (4,883 yard) radius centered at the port's pumping platform complex:

28[degrees]53'06"	90[degrees]01'30"

(4) To a point:

28[degrees]51'07"	90[degrees]03'06"

(5) Then a rhumb line to:

28[degrees]50'09"	90[degrees]02'24"

(6) Then a rhumb line to:

28[degrees]49'05"	89[degrees]55'54"

(7) Then a rhumb line to:

28[degrees]48'36"	89[degrees]55'00"

(8) Then a rhumb line to:

28[degrees]52'04"	89[degrees]52'42"

(9) Then a rhumb line to:

28[degrees]53'10"	89[degrees]53'42"

(10) Then a rhumb line to:

28[degrees]54'52"	89[degrees]57'00"

(11) Then a rhumb line to:

28[degrees]54'52"	89[degrees]59'36"

(12) Then an arc with a 4,465 meter (4,883 yard) radius centered again at the port's pumping platform complex;

(13) To the point of starting:

28[degrees]55'23"	90[degrees]00'37"

(b) *Areas to be avoided.* The areas to be avoided within the safety zone are as follows:

(1) The area encompassed within a circle having a 600 meter radius around the port's pumping platform complex and centered at--

Latitude N.	Longitude W.
28[degrees]53'06"	90[degrees]-1'30"

(2) The six areas encompassed within a circle having a 500 meter radius around each single point mooring (SPM) at the port and centered at--

Latitude N.	Longitude W.
28[degrees]54'12"	90[degrees]00'37"
28[degrees]53'16"	89[degrees]59'59"
28[degrees]52'15"	90[degrees]00'19"
28[degrees]51'45"	90[degrees]01'25"
28[degrees]52'08"	90[degrees]02'33"
28[degrees]53'07"	90[degrees]03'02"

(c) *Anchorage area.* The anchorage area within the safety zone is enclosed by the rhumb lines joining points at--